

JOURNAL

OF THE

SENATE

OF THE

COMMONWEALTH OF KENTUCKY,

BEGUN AND HELD IN THE TOWN OF FRANKFORT, ON MON-
DAY THE FIFTEENTH DAY OF OCTOBER 1821, AND OF
THE COMMONWEALTH THE THIRTIETH.

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JOURNAL OF THE SENATE.

AT A GENERAL ASSEMBLY for the commonwealth of Kentucky, begun and held at the capitol in the town of Frankfort, on Monday the 15th day of October 1821, and of the commonwealth the thirtieth :

It being the day appointed by law for the annual meeting of the general assembly, William T. Barry, lieutenant governor, appeared and took the chair ; and the following members of the senate appeared and took their seats, to wit : From the counties of Breckinridge, Ohio and Daviess, Nathan D. Anderson ; Caldwell and Livingston, Dickson Given ; Christian, Todd and Trigg, Young Ewing ; Butler, Muhlenberg and Grayson, William Worthington ; Warren and Allen, Anack Dawson ; Barren and part of Monroe, John Gorin ; Cumberland, Wayne and part of Monroe, Granville Bowman ; Pulaski, Thomas Dollerhide ; Hardin and Bullitt, James Crutcher ; Green and Hart, Elias Barbee ; Jefferson, Alexander Pope ; Washington, Jeroboam Beauchamp ; Henry, David White, jun. ; Mercer, Robert B. M'Afee ; Madison, Humphrey Jones ; Lincoln and Rockcastle, James Davidson ; Knox, Clay, Whitley, Harlan and part of Perry, Richard Ballinger ; Gallatin, Pendleton and Grant, William Montjoy ; Boone and Campbell, Thomas D. Carneal ; Franklin and Owen, John J. Marshall ; Woodford and Jessamine, Herman Bowmar ; Fayette, Matthews Flournoy ; Clarke, Richard Hickman ; Montgomery and Estill, Samuel L. Williams ; Bath, Floyd and part of Perry, Alexander Lackey ; Fleming, William P. Roper ; Nicholas and Bracken, Thomas Throckmorton ; Harrison, Josephus Perrin ; Bourbon, John L. Hickman ; and Scott, Rodes Smith.

The said Ballinger, Beauchamp, Bowman, Carneal, Dawson, Flournoy, Given, John L. Hickman and M'Afee, severally produced certificates of their having been duly elected at the last general election, and took the oaths prescribed by the constitution and laws of the state.

Willis A. Lee was then elected clerk ; Anthony Crockett, sergeant-at-arms ; and John Crutcher, door-keeper—all

unanimously ; whereupon they severally took the oaths of office.

Ordered, That a committee of propositions and grievances be appointed ; and thereupon a committee was appointed, consisting of Messrs. Ewing, Jones, Flournoy, Marshall, Bowmar, Davidson, R. Hickman and Dawson, and such other members at may from time to time choose to attend ; who are to meet and adjourn from day to day, and take into consideration all propositions and grievances that may be referred to them from time to time, and report their proceedings, together with their opinion thereupon, to the senate. And the said committee shall have power to send for persons, papers and records, for their information.

Ordered, That a committee of privileges and elections be appointed ; and thereupon a committee was appointed, consisting of Messrs. Faulkner, Crutcher, Ward, Perrin, Beauchamp, Weir and Gorin ; who are to meet and adjourn from day to day, and take under consideration and examine, in the first place, all the returns for the election of senators to serve in the present general assembly, and to compare the same with the forms prescribed by law ; and to take into consideration all questions concerning privileges and elections, and report their proceedings, together with their opinion thereupon, to the senate. And the said committee shall have power to send for persons, papers and records, for their information.

Ordered, That a committee for courts of justice be appointed ; and thereupon a committee was appointed, consisting of Messrs. Roper, Owens, White, Pope, Given, M' Afee and Carneal ; who are to meet and adjourn from day to day, and take into consideration all matters relating to courts of justice, and such other matters as shall from time to time be referred to them ; and report their proceedings, together with their opinion thereupon, to the senate. And the said committee are to inspect the Journal of last session, and draw up a statement of the matters then depending and undetermined, and the progress that was made therein ; also, to examine what laws have expired since the last session, and inspect such temporary laws as are near expiring, and to report the same to the senate, with their opinion which of them ought to be revived and continued. And the said committee shall have power to send for persons, papers and records, for their information.

Ordered, That a committee of religion be appointed ; and thereupon a committee was appointed, consisting of Messrs.

Dollerhide, Pickett, Lackey, Ford, Worthington, Bowman and Smith; who are to meet and adjourn from day to day, and take into consideration all matters and things relating to religion and morality, and such other matters as may from time to time be referred to them—reporting their opinion thereupon to the senate. And the said committee shall have power to send for persons, papers and records, for their information.

Cuthbert S. Anderson was then elected clerk to said committees.

A message from the house of representatives, by Mr. M'Millan :

Mr. Speaker—The house of representatives have formed a quorum, elected their officers, and are now ready to proceed to legislative business.

And then he withdrew.

Ordered, That Mr. Jones inform the house of representatives that the senate have formed a quorum, elected their officers, and are now ready to proceed to legislative business.

A message from the house of representatives, by Mr. Yantis :

Mr. Speaker—The house of representatives have appointed a committee to co-operate with a committee from the senate, to wait on the governor and inform him that the legislature is organised and are now ready to receive any communication he may think proper to make.

And then he withdrew.

Whereupon Messrs. Ewing and Ballinger were appointed a committee on the part of the senate.

Ordered, That Mr. Ewing inform the house of representatives thereof.

The committee retired, and after a short time returned, and Mr. Ewing reported, that the joint committee had performed the duty assigned them, and were informed by the governor that he would make a communication in writing, by way of message, to both branches of the legislature, in their respective chambers, on to-morrow at eleven o'clock.

Ordered, That a joint committee for enrolled bills be appointed on the part of the senate; and thereupon a committee was appointed, consisting of Messrs. Williams, Barbee and Ballinger.

Ordered, That the clerk inform the house of representatives thereof.

Ordered, That the rules of last session be adopted as the rules of the present session ; and that the eighth rule of the first branch, be committed to Messrs. Marshall, M'Afee, Roper, White and Carneal.

And then the senate adjourned.

TUESDAY, OCTOBER 16, 1821.

The senate assembled.

Leave was given to bring in the following bills, to wit :

1. On the motion of Mr. Jones—A bill authorising the appointment of two additional constables in Madison county.

2. On the motion of Mr. M'Afee—A bill to amend the act to regulate endorsements on executions.

3. On the motion of Mr. Bowmar—A bill to regulate suits on bills of exchange and promissory notes. 4. And a bill for the benefit of John M'Kinney, late deputy sheriff of Jessamine county.

5. On the motion of Mr. Beauchamp—A bill to prevent swindling in this commonwealth.

6. On the motion of Mr. Carneal—A bill to add an additional week to the terms of the Campbell and Boone circuit courts.

7. On the motion of Mr. Lackey—A bill to amend an act entitled "an act reserving certain property from execution," approved February 4, 1815.

Messrs. Jones, Throckmorton and R. Hickman were appointed a committee to prepare and bring in the first ; Messrs. M'Afee, White and Flournoy, the second ; Messrs. Bowmar, Roper and Marshall, the third ; Messrs. Bowmar, J. L. Hickman and Ballinger, the fourth ; Messrs. Beauchamp, Pope, M'Afee and Flournoy, the fifth ; Messrs. Carneal, Marshall and Montjoy, the sixth ; and Messrs. Lackey, Ewing and Flournoy, the seventh.

Mr. Jones, from the first committee, presented a bill, which was read the first time ; and the rule being dispensed with, it was read a second time and ordered to be engrossed and read a third time.

On the motion of Mr. Marshall, permission is given Mr. Amos Kendall to occupy a seat in this chamber, for the purpose of noting and reporting the debates of the senate.

And it was ordered, on the motion of the same gentleman, that the clerk of the senate be authorised to avail himself of

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the assistance of Mr. Jacob Swigert, in the exercise of his duties.

The senate received a message in writing from the governor, by Mr. Secretary Breckinridge, as follows, to wit:

*Fellow Citizens of the Senate,
and of the House of Representatives,*

The period which has elapsed since the adjournment of the General Assembly, has not been marked by any rare occurrence or afflictive calamity. Although some sections of the state have suffered by an unusual visitation of disease, the general good health of the community has been preserved. The products of agriculture are every where abundant. The operation of the laws has been without interruption, and the tranquility of society remains undisturbed.

It affords me sincere gratification, to communicate to you, the pleasing intelligence, that the pecuniary embarrassments of the country have been extensively relieved during the present year, by the ordinary returns of commerce, and the increased currency, furnished by the establishment of the Bank of the Commonwealth. The wisdom of the policy which gave birth to that institution, has received the decided confirmation of a short experience; and the important benefits it has conferred on the distressed portion of our population, have strongly endeared it to the people. Its favours have been general—equal—and, for the most part, adequate to the pressure of the times.

But the establishment of such an institution, was not a measure of policy only. It may be strictly maintained, that it was obtruded by necessity.

The unexampled growth of these states, the diffusion of their commerce, the extent and value of their acquisitions, and the increase of their power, during that eventful and protracted struggle, in which civilized Europe beheld her most renowned nations contending with relentless ferocity for mutual demolition, imparted an accelerating impulse to their prosperity, and shed around them a splendour of fortune, unparalleled in the history of any former people.—Successful industry laid the foundation of unlimited credit, and impatient cravings for excessive gain, precipitated the adventurous into indiscriminate speculation. The advantages of our situation triumphed over every obstacle. The turmoils of ambition and the contests for dominion, which agitated and rent the kingdoms of the earth, profaned not

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this peaceful land. Our prosperity was nourished by the blood of Christendom.

The pacification in Europe, and the war in America, dried up the sources of our commercial wealth, by lessening our exports and depressing their value. Hence the losses consequent on great and unexpected changes—the stagnation of trade—the scarcity of money—the accumulation of debt, and the substitution of a paper for a metallic medium.

At the termination of the late war, the precious metals had every where disappeared, and excessive issues of paper supplied their place in most of the states. Hence a corresponding rise in all the subjects of property. On the probable continuance of this state of things, contracts were made and debts created. But it was of short duration.—The depreciated currency of the states, was regarded as an evil of dangerous tendency; and the more so, as it was one which the states could not speedily eradicate. A national bank, with a capital sufficient to furnish a national currency, was proposed and adopted, as a prompt and efficient remedy. Has it answered the proposed end? Does it afford a circulating medium for the Union? Whilst it crushes beneath its ponderous weight, every feeble corporation, and displaces the notes of the specie paying banks within the sphere of its operations, are its notes any where to be found, except in the great emporiums of trade, or in discharging the silent and impoverishing operations of exchange?

Our country does not produce the precious metals, and a variety of causes, some of which are highly favorable to the freedom and happiness of mankind, have latterly diminished their annual production. They can be obtained only in the exchanges of commerce with foreign nations, and these exchanges must be conformable to various regulations beyond our control. To rely therefore, exclusively, for a circulating medium, on supplies, the acquisition of which we cannot regulate, is hazardous in the extreme. Accordingly, we perceive the difficulty, at this very moment, of obtaining an adequate supply of specie for the uses of the banks, and the necessity of those that continue to pay cash, to diminish the amount of their notes in circulation, by heavily and continued calls on their debtors.

The notes of the bank of the United States have ceased to circulate in Kentucky. The specie in the hands of individuals, is insufficient to pay the interest, on her entire debt. The state bank, to preserve her existence, has been

compelled to close her vaults. How are the debts of the country to be paid? In specie? We have seen that it is impracticable. In the national currency? If generality of supply, and diffusiveness of circulation, are implied by the term, it may be answered, that no such currency exists. But may we not profit by the indulgence of time, and repair the wastes of extravagance by a prudent economy? If that measure be neither just nor reciprocal, which debars me from coercing the payment of my debt, and requires me to look forward to a distant remuneration of an augmented demand; it is a truth equally emphatic, that no measure can bring with it relief, which adds to the evil complained of, and doubles the number of those who are to bear it.— In situations highly commercial, the growth of luxury may have kept pace with the increase of wealth. But extravagance is not the vice of our country. Our people, collectively, are free from the reproach. Their misfortunes have originated from external causes, and that legislative requisition, by whose authority they should be called on to pay debts without money, to make bricks without straw, would be a solemn mockery, a cruel insult. May we not hope that our condition will gradually improve? Assuredly it must. The precious metals will flow back into the country with the resuscitation of commerce, notwithstanding the discouraging causes which of late have steadily operated to retard their increase, and even to diminish their amount. The exuberance of their resources, and the fidelity and fortitude of the people, will in the end deliver them. But it cannot be the policy of a wise and humane government to become an accessory in the depression of its citizens, by contributing to a violent destruction of credit and a general change of property. It is the duty of every government to supply a sound and sufficient circulating medium, and to prevent as far as practicable the evils of a fluctuating currency, by means of which, the relative value of commodities is deranged, and the security of contracts impaired.— No man ought to be compelled to pay more, or permitted to pay less, than he contracted to pay. Specie itself is not of invariable value, although it is indubitably the best standard of value. It is not essentially valuable, but the representative of value, and bank notes are merely its representatives. In reference to this common standard, value is the price which the products of labour bear to money.— But this price is varied by the plenty or scarcity of money, or its representative, bank notes, as effectually, as by the

plenty or scarcity of the subjects of primary necessity, & the fluctuations consequent upon an increase or diminution of the circulating medium of a country, will produce a change in the relative value of such medium in the inverse ratio of such diminution or increase. Hence the injustice of either subjecting the creditor to receive payment of a debt, contracted on the corresponding relations of a metallic and limited medium, in an enlarged & depreciated paper currency; or exacting from the debtor a discharge of his obligation, contracted on the relative value of the latter, in the enhanced medium of the former. In seasons of general depreciation, or extreme pressure, thus to coerce a literal obedience to contracts, against the principles of equity and the true intent of the undertaking, can neither amend the morals of individuals, nor strengthen the faith of nations. We should equally deprecate that profligate legislation, which wars against the rights of accumulating industry, and that rigorous sternness, which regards an unfortunate debtor as a victim due to legal vengeance. Mankind are peculiarly sensitive in relation to their monied concerns. There is a fatal tendency in the progress of society, to depress the poor, and substitute wealth for merit. Pecuniary calamities only, are punished as criminal. In an age of refinement, and in nations highly civilized, we witness the persons of individuals, who are equal members of the social compact and the common property of their country, delivered over to the vilest passions of the worst of men. And even in our own code, we are startled by the monstrous anomaly of the imposition of severer restrictions on personal liberty, in actions for the recovery of money, than in prosecutions for felonies. It is a truth of eternal obligation, that every government should shield its citizens from the consequences of its own errors.

The Congress of the United States, in the recent measures adopted for the relief of the purchasers of public land, acted on the assumption, that the great and unforeseen diminution of the available currency of the Union, and the consequent inability of purchasers to meet their engagements with the government, without enormous losses or irreparable ruin, gave them a valid claim on her clemency and indulgence.

Epochs of severe pecuniary distress, will sometimes occur in all countries. Such an one at this moment exists, and its effects are commensurate with the commercial world. In such a crisis is it for legislative assemblies to witness in

silence the general wreck of private independence and public prosperity, and supinely await the slow growth and dubious result of a new order of things, or avert the impending evils, by appropriate and decisive remedies? Of these the most obvious and salutary would seem to be an increase of the circulating medium. Such was the suffering condition of Kentucky, and such the remedy which has been devised.

The legislature was presented with the alternatives of a suspension of the collection of debts, or an option to the creditor to receive present payment in bank notes. The latter, I think, was properly chosen. A paper system, as a measure of relief, became inevitable, and the only question left for discussion, involved the character of the corporation to be employed as an agent.

The experience of our common country, by no means strengthens our confidence in the stability and safety of monied corporations, in the control of which the integrity of their directors is left at the mercy of their avarice. In the present crisis, a specie-paying bank cannot be profitable to the holders of its stock. If its issues be increased, its vaults must be shut up. If it fail to redeem its notes, its credit will sink. Thus, to continue its profits, it must violate its faith. A paper currency cannot be sustained by the irresponsible agency of private corporations. It is only by the interposition of the ample resources and unquestioned faith of the state, that we can expect efficacy from such a system. All attempts to supersede the use of the precious metals, by the substitution of paper assurances, as a permanent and fixed medium of exchange, are as idle as they must be found to be impracticable. But to withhold from the solemn and binding pledges of an entire community, rich in resources, and stained by no single act of dishonor, that willing credence which is yielded to each and every of its individual members, is irrational in the extreme. Why shall not states, as well as individuals, anticipate their resources? To the Bank of the Commonwealth it cannot with fairness be objected, that the foundations of its credit are insufficient. Passing over the existing surplus of the revenue, which must be annually largely augmented, and the amount of stock at present owned in the Bank of Kentucky, which exceeds half a million, it may be safely calculated, that the lands south and west of the Tennessee river, are, in their present unimproved state, equal in value to the whole amount of capital of the new bank. If these lands be judiciously dis-

posed of, one moiety, a few years hence, will be rendered equal to the present value of the whole, by the adjacent improvements of the sections first sold. It is evident, then, that the means provided for the redemption of her paper, are abundant. The government of the institution is confided to the representatives of the people. Its fate is in their own hands. Its credit may fluctuate, but it never can fail while they remain honest.

The continuance of such an institution, is the surest measure of relief. It has proved itself of easy and convenient application, by the simplicity of its operations, and the equality of its distributive character. The legislature, I trust, will be too strongly convinced of its utility, to endanger its accruing benefits, by the complexity of other and less salutary regulations; and will scrupulously abstain from any increase of its capital, or the passage of any other measure, which, by causing the notes in circulation to exceed the demands of business, and the imperative wants of the community or by weakening the confidence of the people in the solvency of the bank, may precipitate the destruction of the whole system, as a relief measure, by so far depreciating the paper as to stop its circulation. The credit of the paper must be sustained. A prompt and faithful application of the means provided by your predecessors, to the purposes for which they were designed; and a denial of immediate execution, in all cases, where a willingness to receive notes of the existing banks, shall not be indicated, are the measures recommended to inspire confidence and obviate distress.

It is, however, to be remembered, that there are many individuals, whose condition cannot be improved by state legislation. They must look for deliverance, from the justice and liberality of the general government.

Whether the Bank of the Commonwealth, in its subsequent operations, shall be found to realise the hopes of its friends, or be destined to become the instrument of severer reverses, it is undeniable, that it has saved a considerable portion of the debtor population of the community, from poverty and ruin, and largely augmented the revenues of the state. The public funds are ample and increasing. A capital, sufficient to lay the foundation of valuable and lasting improvements, remains in your treasury, inactive, and unappropriated.—Surely it cannot be the true policy of any government, to become a hoarder; much less of a government like ours, which derives its support from the confi-

dence and love of its citizens ; and least of all, under circumstances which harass them by the pressure of peculiar and irritating wants. If the people be needy, the public wealth should be usefully disseminated. If the profits and employments of foreign commerce, can no longer be obtained, the necessity is increased for encouraging domestic industry and facilitating the means of internal intercourse. If provisions be cheap, and labor low, no time can be so judiciously selected, for the construction of costly and durable public works.

But if it be an undertaking, worthy the enlightened consideration of the legislator, to diversify and adorn the face of his country ; if to multiply the conveniences, and give perpetuity to the improvements of its roads and its rivers, its edifices and its fields, be justly regarded as direct and powerful means of advancing human happiness, and confirming national glory, how momentous are the duties, how animating the motives, which terminate in the successful establishment of the great and diffusive interests of education ! On this subject I feel so deep a solicitude, that nothing but a firm conviction of the existence of corresponding sentiments and dispositions on the part of the members of the general assembly, could induce me to forego a recapitulation and enforcement of some of the most obvious inducements to renewed efforts, which have heretofore been presented by my predecessors in office. The commonwealth of Kentucky has made many, and liberal endowments, to her seminaries of learning ; but these praiseworthy acts of munificence, have been generally rendered inefficacious, by negligence or indiscretion on the part of those to whose care the donations have been confided ; and if subsequent legislatures have not opened fresh sources of supply, it may, in some measure, be attributed to a deficiency of means. That deficiency no longer exists. To our existing resources, so flourishing and abundant, we may confidently expect a vast acquisition, from an impartial distribution of that part of the national domains, already appropriated to a considerable extent, for the promotion of learning in the several states. In this state, the public mind has recently been awakened to its importance, and successful attempts have been made to emulate the usefulness of the most ancient and matured establishments in other countries. In republican governments, especially, the right education of youth is a matter of vital concern.

The institutions of learning should be sustained by legis-

lative patronage, and be subject to legislative inspection and control. Such appear to have been the sentiments entertained by the legislature, a few years ago, when Transylvania University was re-organised, adopted as a state institution, and temporarily endowed. The aid then afforded, has been withdrawn, by repealing the charter of the Farmers and Mechanics' Bank of Lexington; and the University, in its enlarged form, and more expensive organization, is left to sustain itself by a precarious and slender reliance on tuition fees alone. Thus situated, it will soon cease to flourish—perhaps, to exist, as a place of general instruction. I must, therefore, with an earnest importunity, suited to the wants of an institution so important in its influence on the best interests of our country, and deriving from your adoption a legitimate claim to your protection, urge the propriety of a permanent annual appropriation, sufficient to supply the deficiency of its actual receipts, to meet its ordinary expenditures. At the same time, it is earnestly recommended to mature and adopt a system of general and cheap instruction, which in its details, shall pervade every part of the community, and bring home the blessings of a substantial and business education, to the door of every family. The accomplishment of such an undertaking, perplexing as may be its arrangements, and expensive as must be its continued support, is not beyond the zealous and persevering application of our means. It is due to the present age, and to posterity, that the attempt should be made. It is necessary to the purity and permanency of our civil and political institutions, and to our relative dignity and influence in the councils of the nation, that it should succeed.

I must again invite the attention of the Legislature to a consideration of the condition of the state Penitentiary.—If it be true that political institutions had their origin in the wants and fears of individuals, and were designed for the security of all the members of civil society, it is as great a perversion of the just ends of government, to extend the punishment of offenders beyond the measure required by the safety of the unoffending, as it would be to refuse redress to the injured, or protection to the weak. Punishments are inflicted for example and amendment. The former are public and intended to deter. The latter ought to be secret, and fitted to reform. To multiply capital offences beyond the number of those, which have for their object the destruction of human or national existence, bespeaks a

pusillanimous and vindictive spirit of despotism. By a public and prolonged exhibition of ignominious punishment, calculated to humble and debase a being, whose want of self-respect has betrayed him to the commission of meanness or of crime; by consigning to one common mansion of guilt, all convicts of whatsoever grade, and compelling the high-minded, the enlightened, the unfortunate victim of a venial error, to consort with the atrocious murderer or ignoble thief, and from the influence of such a system and the contagion of such associations, to hope for final reformation, bespeaks a lamentable ignorance of human character. The pride of our legislation has never stooped to the ball and chain: its humanity admits, but on awful exigences, the horrors of the gallows. To the honor of Kentucky, it will hereafter be recorded, among the acts on which posterity will love to dwell, that in the very infancy of her government, she was among the first to assert the permanent triumph of civilization over the barbarous inflictions of sanguinary punishments. But whatever tends to change the established condition of mankind, or even to mitigate their sufferings, must be of slow progress; and whatever may have been the success of the Penitentiary system elsewhere, it is a cause of regret, that here, it has failed to realize the expectations of its philanthropic founders. This disappointment, however, should be the less discouraging, from the consideration, that our failure has been the result, rather of a neglect or misapplication of means, than of any radical defect in the system itself.

Whether society can rightfully exact, as the forfeit of any act, the life of one of its members, is a question which has been too long confined to the schools. May we not indulge the fond hope, that it has been reserved for the auspicious age in which we live, to give birth to a new era in the history of criminal jurisprudence, and for the legislators of the new world, by the abolition of capital punishments, to add another trophy to the victories of enlightened freedom? But whatever may be the period from which we are to date the consummation of our hopes, we have every motive to present exertion, that can originate from the disappointment of well-founded expectations.

It is the peculiar excellence of the Penitentiary system, that it blends the ends of public example and personal reformation. Its characteristic defect is a tendency to corrupt the heart, by vicious association, and a hardened disregard of public opinion.

The following present themselves as the prominent defects in our system :—

- The omission of solitary confinement ;
- The want of general instruction ;
- The absence of all distinctions of merit ;
- The infliction of corporal punishment ; and
- The neglect to furnish a suitable provision for the prisoner after his liberation.

Man is a social being.—The intercourse of his fellow-man, is essential to his happiness and necessary for the expansion of those noble faculties which distinguish him above all other animals. Unbroken solitude is the grave of his genius and his joys. Virtue herself wanders with melancholy aspect in the regions of exile, and sinks with despairing anguish amid the gloom of that dungeon, from which she is never to emerge. But absolute and compulsory solitude, when adopted as a punishment and inflicted for a season only, has been found productive of the most beneficial results. It is the inquisitor of the soul, and the tyrant of every vice.

It may be regarded as scarcely possible, that the guilty prisoner can long inhabit a cell, where darkness and silence reign undisturbed arbiters of his doom, without some relenting of purpose—some real penitence of heart. The moral faculty regains its lost dominion in his breast, and its solemn responses are regarded as oracular. He acquiesces with abated resentment, in the justice of the sentence by which he suffers. That audacious spirit of resistance to the established order of society, which drove him to the commission of every outrage, gives place to the mortifying sense of his weakness and dependance ; and he ardently desires as the first of blessings, a return to that very society, from which his crimes have banished him.—Hence originate a disposition fitted for the reception of moral and religious instruction—a conformity to the requisitions of his present condition—a spirit of active industry, emulation, and amendment, as the means of present favor, and future restoration ; and all the benefits which are consequent on regular habits, and amended morals. If the prisoner be wholly uneducated, he ought to be instructed in the elements of reading, writing, and common arithmetic. If he be destitute of the knowledge of some useful and creditable trade or occupation, he should be taught how to obtain a subsistence, by his skill and labor. Rewards should be offered, which would have for their end, present exemptions, and

distinctions, and the shortening the time of confinement and service—and even in this abode of punishment, penalties should be inflicted, to deter from insolence, from negligence, and from petty vices. But corporal punishments, and every mark of ignominy, should be carefully avoided, as tending to debase and render desperate; those we would amend. In the place of all other modes of punishment, solitary confinement is recommended, as an invincible champion in the school of correction.

After the expiration of his time of service, the subject of partial reformation or more confirmed vices, is turned loose on the community, in the midst of strangers, without a shilling in his pocket, and with the badges of his recent disgrace, attracting derision and reproach, wherever he goes. Is this an ignominy to which his country should consign the wretch, who has drunk to the dregs the cup of humiliation? Is this a trial, to which even an offended country should betray him? No: Let the industrious convict be allowed a moderate portion of his own earnings, to bear him to his distant home—perhaps to his beggared family. I would save even the slothful and improvident, from this last scene of human degradation—permitting those who could not be restored to the confidence of their fellow-citizens, to hide their unobtrusive faults, by gently sinking into their native obscurity.

It will, however, be found utterly impracticable, in the present situation of the institution, to carry into effect the whole, or any material part, of the plan above suggested. The buildings are wholly inadequate to the purposes for which they were designed, and are in a state of rapid decay.

Our population has outgrown our early establishments. While the corresponding ratio of crimes has diminished, the number of criminals has greatly increased. There is not sufficient space within the walls for the convicts to carry on their respective occupations—far less, for exercise and recreation. Half a dozen are crowded into one apartment, constructed for the accommodation of a single person. Frequent and severe disease is the consequence; and sometimes, it is to be feared, premature death.

By keeping all the convicts together during the day, and many during the night, those pernicious associations are formed, and continued, the effects of which are so much to be deprecated; and that continued or occasional solitary confinement, particularly in the early period of their term, the fruits of which are considered so salutary, rendered im-

practicable. The unrestrained communication which necessarily exists, affords daily opportunities for the consummation of desperate plots, while the dilapidated state of the buildings invites them to escape. It is cruel, thus to tempt beings, in whom the love of liberty is the ruling passion, to fly from imprisonment, when the very attempt, so natural—so irresistible, imposes new shackles and prolongs their bondage. In such a confined, insecure, and confused condition, little is to be hoped for or accomplished, in moral improvement, intellectual instruction, the formation of better habits, or the efficacy of example. Few are amended, and none reformed. Unless then, the legislature shall be prepared to abandon the mild system of corrective punishment, under the influence of which the safety and morals of the community have heretofore been so happily guarded and improved, the time has arrived, when it becomes indispensable to reorganize and enlarge the state Penitentiary.

But if the sympathies of the wise and good, are so deeply enlisted in mitigation of sufferings that the felon justly endures—what shall be the measure of that generous pity, which is excited by the sad spectacle of maniac bereavement? It is not among the fragments of mouldering columns, scattered over the sands of the desert;—it is not beneath a solitary arch of some decayed citadel of subverted empire, that in the retrospect of the instability of human affairs, we learn the most instructive lesson of the vanity of human hopes. It is when we pause amid the ruins of the human mind; when we contemplate the destruction of those intellectual powers, which rendered their possessor lord of creation; and behold the imbruted madman, roving with dark and savage purpose, through an affrighted land, which his philosophy had enlightened—his eloquence enraptured—his valor emancipated—and his benevolence blessed, that we impressively feel the worthlessness of every attainment, that does not dignify our motives, ennoble our pursuits, benefit our kind, and merit an everlasting reward. As the possession of reason is the glory and distinction of our nature, so its deprivation may be regarded as its heaviest calamity. The duties which we owe to the objects of such deprivation, are of most sacred obligation. Much may be done for their comfort—for their recovery; and we are responsible for all the good which we might, but will not do. Nay, the pride of superiority and the selfishness of interest, should conspire to impel us to acts of genuine mercy.—Who can say that in the mutability of his fortune, the light of his un-

derstanding shall continue to illumine the darkness of his path! Who will not rejoice in the perfection of an art that can break the fantastic fetters of the brain, and set free the imprisoned mind!

The provision afforded by law for persons of unsound mind, is liberal, but ineffectual. The subjects are unavoidably so situated, as in a great degree, to be destitute of proper discipline and regular medical attendance. They are frequently surrounded by the scenes and objects which produced their disorder, and which of all others, are worst adapted to "minister to a mind diseased"—exposed to the obtrusive observation of strangers—and sometimes subjected to the ill-judged severity of those, who may have been induced to take charge of them from motives of avarice.—Under such circumstances, cases of partial derangement frequently become incurable, and the wretched victim is rendered a terror to whole neighborhoods.—Thus it is, that the bounty of the state is squandered, and the miseries of its subjects aggravated. By converting the hospital, already erected at Lexington, and at present unappropriated for want of funds, into a state institution, where all the unsound of mind could be collected under one roof, and receive, gratuitously, daily visits from physicians of skill and experience, and where the patients would be constantly attended by careful nurses, it is confidently believed, that numbers, who must otherwise be lost to their country, their families, and the enjoyment of Heaven's richest gift, might be restored to the high and active duties of life, and the uninterrupted enjoyment of a blessing, above all price. The vicinity of the institution, would prove highly beneficial to the medical school, which would in time repay the obligation, by useful discoveries in the treatment of mental maladies. And if I could believe, that in the consideration of a subject, hallowed by the best feelings of the human heart, calculations of mere profit and loss, could be admitted to influence the pure judgment of benevolence, I would demonstrate the cheapness of the proposed measure, as a conclusive argument for its adoption, in the stead of the present wasteful and annually increasing expenditure.

I cannot close this communication, without calling the attention of the legislature to the important subject of a revision of our statute laws.

It is recorded of one of the most odious tyrants of antiquity, that he caused his laws to be written in diminutive letters, and elevated on pillars so high as to be illegible to

his subjects. Similar effects are sometimes produced by the most opposite causes.—An extreme solicitude to regulate and adjust all the concerns of society, by the mere force of legislation, will leave the unlearned and incurious, as ignorant of those regulations to which they are required to conform their acts, and by which their rights are decided, as the unhappy victims of the imperial monster. The only legitimate object of legislation, is the happiness of mankind; and all laws designed for their good, should be rendered accessible to their knowledge. Whatever may be the infirmities of our nature, in every country the great mass of the inhabitants, mean well. To just laws, impartially administered, they yield a voluntary obedience; the only submission that does not degrade. In free states, where the people either make the laws, or choose those who do, the principle of the government is corrupted, whenever the people cease to understand those laws. Hence the necessity in such governments, of a frequent recurrence to first principles—a clear and well defined exposition of rights and privileges—a fearless amputation of cumbrous and abrogated appendages, which enfeeble the body they deform—and a rigorous exclusion of those artificial modes and useless forms, in the conduct of public affairs, under which the image of justice is hid, and which serve, when liberty expires, to exhibit an appearance of life, after the extinction of every principle of vitality.

It necessarily resulted from the origin and growth of the American commonwealths, that their legislation should be profuse, and their codes multiform. At the period of the revolution, when the political relations which had subsisted between the British empire and her colonies, were dissolved, the latter still retained, as independent states, the old system of English common law and statutory jurisprudence. On this broad and deep foundation, composed of materials so much compounded, have been erected various structures, strongly resembling each other, and all essentially varying from the Gothic model. The love of liberty, indigenous in the hearts of our people, has incessantly impelled them to fortify their rights by precautionary enactments, while their enterprising and commercial spirit, cherished by free and liberal institutions, has perpetually furnished new subjects for legislation, and multiplied municipal regulations. The twofold character which we sustain, as separate members of a sovereign and independent community, and citizens of one common, vast, national con-

federacy, by rendering our relations more complex, accumulates the obligations which bind us to each other. And it is not to be forgotten, that when the government of Kentucky was established, the young state received as an ample portion of her patrimony, whatever was applicable to her wants, or conducive to her accommodation, from the legal archives of her venerable parent. To these resources, so various and so rich, successive legislatures have continued to add with persevering industry and undiminished bounty. I am apt, however, to believe, that in the zealous exercise of this favorite spirit of legislation, laws have been hurtfully enacted, on many subjects. Among the numerous evils attendant on excessive legislation, may be reckoned, the danger of all legislation by reason of the uncertainty of the existing laws. To legislate with wisdom or even with safety, we must fully understand the system in relation to which we legislate; and before the legislator shall venture to expunge an old, or insert a new statute, it behoves him to estimate the practical results, in relation to the residue of his code. In rudely demolishing the appendant scaffolding, we may shake the pillars which support the temple.

When laws have become so voluminous, that none but men of leisure can read them; when they have been rendered, by repeated amendments, repeals and re-enactments, so intricate, that they are difficult to be understood, except by men whose profession it is to study and illustrate them; and when, by these frequent changes, they have been rendered so uncertain, that the people are afraid to contract on the faith of them, lest they may have been repealed before the period of their general dissemination, it may with justice be pronounced, that the protection of the citizen, has measurably ceased to be secured by such laws. It is to be feared, that many of the primary magistrates of such a country—a most important body of officers, the exercise of whose powers in the diffusive concerns of life, daily comes home to the business and bosoms of men—will often be deterred from prosecuting their unsatisfactory researches into the chaos of the laws; while others will be induced to resign stations, so perplexing and responsible. A fluctuating, or undefined condition of the laws, begets discontent among all reflecting and moral men; and affords abundant opportunity and temptation, for the indolent and vicious to perpetrate their crimes with destructive impunity. By the useless multiplication of statutory regulations on the same subjects; by frequent and rapid changes, and a long neglect of the proper

means to methodize and reduce to a simple form and convenient bulk, the laws in operation and scattered through numerous volumes, the great body of the citizens of a representative republic, may, in time, become ignorant of those very laws which they medietely enact. To arrest at the threshold the deleterious operation of causes like these—distinctly to present to the members of the general assembly the statute laws of the commonwealth, actually in force, in one continuous and condensed view, enabling them to trace, as on a faithful chart, the exact lineaments of our legislation; to detect omissions, to remedy defects, and impart to the whole a unity of design, and harmony of expression; and to place within the reach of every public officer and private citizen, in a cheap and intelligible form, those rules which prescribe his most solemn duties and define his most sacred rights, the proposed revival is respectfully and earnestly recommended.

Since the last session of the Legislature, a question has been agitated before the supreme court of the United States, on a subject deeply interesting to the people of this state. Owing to the unfortunate uncertainty in our land titles, it was seen at an early period of the independence of this commonwealth, by its legislature, that without an adequate provision to indemnify the *bona fide* occupant of land, for the lasting and valuable improvements which he should make upon it, in the event that his own title, believed by himself to be good, should prove defective, the progress of settlement and improvement would, if not prevented, be greatly retarded. To secure that indemnity, the legislature, accordingly, as far back as 1797, passed an act, and at subsequent periods passed other acts on the same subject. Whatever diversity of opinion may have existed, as to the expediency of some of the provisions in the latter acts, the legislature never doubted its authority to pass all of them; and this authority has been affirmed to exist by our highest judicial tribunal, in every instance where the question has been made. To estimate the great benefits flowing from the security and confidence inspired by this system, we have only to imagine what appearance, without it, the face of the country would now exhibit, and compare it with the state of improvement actually existing. The validity of some of those acts has been called in question before the supreme court, upon the ground of their imputed repugnancy to the compact between Kentucky and Virginia. It is remarkable, if the repugnancy really exists, that Vir-

ginia herself has never complained of it; and that she has never asked for the constitution of that tribunal which the compact itself, contemplating possible infractions of its stipulations, provides for; but that, on the contrary, she has for such a length of time acquiesced in that course of legislation, which the policy of this state imperiously demanded, and which has so essentially promoted its prosperity. That the state of Kentucky has intended strictly to observe the compact, cannot be doubted; for besides the good faith which has ever characterised it, the compact has been incorporated in both our constitutions—one of which was adopted subsequently to the act of 1797; and thus has given to it the most solemn and fundamental obligation. The character of the state, and the public interest, would alike seem to require that no measure should be omitted, which may tend to vindicate both. I submit, therefore, to your consideration, the propriety of retaining counsel to support, in behalf of this state, the validity of its laws; and also the expediency of opening a communication with Virginia, for the purpose of those mutual amicable explanations which may be called for by the occasion.

In obedience to a resolution passed during the last session of the general assembly, requesting me, as soon as practicable, to cause to be run and marked, that part of the boundary line between this state and the state of Tennessee, which lies between the south-eastern corner of this state and Walker's line, as marked on Cumberland river, near the mouth of Obie's river, agreeably to the ratification of the boundary line, as lately established between this state and the state of Tennessee; Col. William Steele, of Woodford county, was appointed surveyor on the part of this state, and in conjunction with the surveyor appointed by the governor of the state of Tennessee, has performed the duty contemplated by that resolution. An authentic copy of their joint report, accompanies this communication. I have no doubt of its entire accuracy. It only remains, for you to approve the work, and fix the compensation of the agents employed on the part of this government.

I beg you to accept my best wishes for a happy termination of your deliberations, and my assurances of a cordial co-operation in all measures calculated to promote the public good.

JOHN ADAIR:

Frankfort, October 16, 1821.

We the undersigned William Steele and Absalom Looney, being appointed by the states of Kentucky and Tennessee, to run and mark the boundary line between the said states, from the south eastern boundary of the state of Kentucky, at Cumberland mountain, to the Cumberland river near the mouth of Obed's river, agreeable to the articles of treaty between the two states, William Steele on the part of Kentucky, and Absalom Looney on the part of Tennessee, and in pursuance of said appointments, have proceeded to run and mark said boundary, as follows:—Beginning at seven pines and two black oaks, on the top of Cumberland mountain, on the Tennessee line, one mile and a half and twelve poles southward from the Cumberland gap; and thence with Walker's old marked line south, eighty-six degrees west by the magnetic meridian crossing the left hand fork of Yellow creek at one mile, crossing Mingo mountain and crossing Bennett's fork of Yellow creek at five miles, then crossing log mountain, and crossing Bowman's fork of the Clear fork of Cumberland at nine miles, and the Trace fork at twelve miles, and Buffalo at fifteen miles, and the Laurel fork at eighteen miles, and Tom's creek at nineteen miles, and Primroy at twenty-one miles; then crossing Pine mountain, and crossing the Clerk fork of Cumberland river in the lot at twenty-five miles; then crossing Hackle knob to the Elk fork, at twenty-eight miles; then crossing Indian creek at twenty-nine miles—crossing Gillico mountain and crossing Gillico creek at thirty-three miles, and crossing the right hand fork of Gillico at thirty-six miles, and crossing Rock creek at forty-one miles, and crossing Marsh creek at forty-seven miles, and Roaring Pouch at forty-nine miles, and Bear creek at fifty-four miles, and crossing the big South fork of Cumberland at fifty-eight miles, and crossing Rock creek at sixty eight miles, and crossing the left hand fork of the little South fork at seventy-six miles, and passing the Chimney (or Pilot) Rock at seventy-eight miles; then crossing the Poplar mountain into Stockton Valley at eighty-seven miles; then crossing Piles' Turnpike road at ninety miles; then crossing Wolf river six times, to wit: at ninety-six miles, ninety-seven, and twice in ninety-nine, and at one hundred and three miles, and crossing Sulphur creek at one hundred and four miles, and crossing Kettle creek at one hundred and twelve—in all one hundred and fourteen miles to three hackberry trees on the bank of Cumberland river, opposite to the point where Walker's old marked line strikes the Cumberland ri-

ver on the west side, and about twenty poles above John Ken's house. Began on the twenty-first day of May, and ended on the ninth day of July, 1821.

Done in duplicate this 9th day of July, 1821, on the line near Obed's river.

WM. STEELE, *Surveyor, Kentucky.*

A. LOONEY, *Surveyor, Tennessee.*

WILLIAM STEELE, JR. *Assistant.*

Berry Searcy,

Samuel Lane,

Daniel G. Miller,

Wm. Johnson,

George Argenbright,

Richard Steele.

} Chain Carriers and Markers.

To amount paid Berry Searcy for 58 days in the above service, - - - - - \$58 00

To do. do. Samuel Lane 50 do. 50 00

To do. do. Danl. G. Miller, 52 do. 52 00

To do. do. Geo. Argenbright, 47 do. 47 00

To do. do. Wm. Johnson, 47 do. 47 00

To do. do. Richard Steel, 47 do. 47 00

To do. do. for subsistence, forage, &c. do. 239 00

To do. do. for pack horses, &c. do. 57 00

\$597 00

The above amount as stated was paid by William Steele, on the part of Kentucky, and Absalom Looney, on the part of Tennessee, each an equal part.

WM. STEELE,
A. LOONEY.

9th July, 1821.

On the motion of Mr. Ewing,

Ordered, That the public printers be directed to print forthwith five hundred copies of the message, for the senate.

Mr. M'Affee moved sundry resolutions, which were read and agreed to as follows, viz.

1. *Resolved*, that so much of the governor's message as relates to the bank of the commonwealth of Kentucky and the sale of the lands west of the Tennessee river, be referred to a select committee.

2. That so much of the said message as relates to education and the establishment of schools, be referred to a select committee.

3. That so much of said message as relates to the Bank of the United States, be referred to a select committee.

4. That so much of the said message as relates to the Transylvania University, be referred to a select committee.

5. That so much of the said message as relates to the revision of the statute laws of this state, be referred to a select committee.

6. That so much of said message as relates to the improvement of the navigable rivers, be referred to a select committee.

7. That so much of the said message as relates to the decision of the supreme court of the United States upon the occupying claimant laws of this state, be referred to a select committee.

8. That so much of the said message as relates to the establishment of a Lunatic Hospital, be referred to a select committee.

9. That so much of said message as relates to imprisonment for debt, be referred to a select committee.

10. That so much of said message as relates to the Penitentiary, be referred to a select committee.

11. That the foregoing committees have power to report by bill or otherwise.

And then the senate adjourned.

WEDNESDAY, OCTOBER 17, 1821.

The senate assembled.

Messrs. Owens and Pickett appeared and took their seats.

Mr. Speaker then appointed committees to act under the resolutions offered on yesterday by Mr. M'Afee, in relation to the governor's message, viz. Messrs. M'Afee, Ewing and Perrin, on the first; Messrs. Pope, Dawson and Bowman, on the second; Messrs. Marshall, Smith and Lackey, on the third; Messrs. White, Bowmar and Anderson, on the fourth; Messrs. Owens, R. Hickman and Worthington, on the fifth; Messrs. John L. Hickman, Faulkner and Gorin, on the sixth; Messrs. Roper, Crutcher and Ballinger, on the seventh; Messrs. Flournoy, Barbee and Pickett, on the eighth; Messrs. Carneal, Marshall and Montjoy, on the ninth; Messrs. Jones, Gorin and Williams, on the tenth.

Leave was given to bring in the following bills, viz.

1. On the motion of Mr. Beauchamp—A bill to amend an act entitled "an act to prevent frauds and perjuries."

2. A bill for the relief of debtors and creditors in this commonwealth.

3. On the motion of Mr. M'Afee—A bill to amend the militia law.

4. On the motion of Mr. Flournoy—A bill to amend the penal laws, so far as respects the trial of slaves.

5. On the motion of Mr. White—A bill to increase the number of judicial districts, and to regulate the terms of the several circuit courts in this commonwealth.

6. On the motion of Mr. Carneal—A bill for the benefit of the wife and children of Benjamin Herndon.

7. On the motion of Mr. Gorin—A bill further to regulate the debt due the commonwealth for the sale of vacant lands.

Messrs. Beauchamp, Flournoy and Barbee were appointed a committee to prepare and bring in the first; Messrs. Beauchamp, Ewing, Owens, Marshall and M'Afee, the second; Messrs. Gorin, Ewing and Given, the third; Messrs. M'Afee, Pope and Lackey, the fourth; Messrs. Flournoy, Owens and White, the fifth; Messrs. White, Given, Roper, Pope, Owens, M'Afee and Flournoy, the sixth; Messrs. Carneal, Montjoy and Owens, the seventh.

Mr. Beauchamp from the first, and Mr. Gorin from the third committee, respectively presented bills, which were severally read the first time and ordered to be read a second time.

Mr. Marshall presented a memorial from Messrs. William Littell and Jacob Swigert, representing that they have compiled a complete Digest of all the Statute Laws in force in this State, and praying the patronage of the legislature; which being received and read, was referred to the committee raised on the governor's message in relation to the same subject.

Mr. Speaker laid before the senate a letter from the auditor of public accounts, covering an annual statement from his office, which were read as follows:

AUDITOR'S OFFICE, 17th October, 1821.

DEAR SIR.

You will please to lay before the house over which you preside, the accompanying statements, from No. 1 to 7, and very much oblige,

Yours Respectfully,

PORTER CLAY, AUB.

*William T. Barry, Esq. Lieut. Governor
and Speaker of the Senate.*

(No. 1.)

A statement of moneys received and paid at the Treasury during twelve months, ending on and including the 10th day of October, 1821, viz:

For the revenue collected by sheriffs		
for the year	1796,	\$20 00
Ditto	1817,	13 27
Ditto	1818,	8 00
Ditto	1819,	77,439 06
Ditto	1820,	1,30 89
		78,611 22
For taxes on law process, deeds, seals and other public documents, viz.		
Clerks of Courts,	12,653 02	
Register of the land office,	730 09	
Secretary of state,	86 45	13,469 56
Fines,		105
Miscellaneous receipts,		23 86
From the agent of the penitentiary,		25,818
For dividends on the state's stock in the Bank of Kentucky, viz.		
For the six months ending on the		
1st of January, 1821,	20,177 33	
Ditto on the 1st of July, 1821,	17,901 00	38,078 33
For tax on stock owned by individuals in the Bank of Kentucky,		
		7,897 87
For tax on non residents' lands,		3,105 74
For purchasers of non-residents' lands,		1,318 40
For the bank stock fund, to-wit:		
Lands granted under the acts of		
1795, 1797 and 1800, known by		
the appellation of head-rights,	2,924 40	
Ditto under the acts of 1815 & '20,	10,605 43	
Ditto Tellico,	21 00	
Ditto granted under the act for encouraging the manufacture of salt,		
	673 40	14,224 23
Total amount received,		\$182,652 21
Balance to the debit of the treasurer on the 10th day of October, 1820,		
		70,690 32
Grand total,		\$253,342 53

THE SENATE.

29

Amount brought forward,	253,342 53
PAID.	
Warrants reported by the treasurer to have been paid, to the 10th day of Oct. 1821,	179,531 75
Balance to the debit of the treasurer on the 10th day of October, 1821,	73,810 78

No. 2.

A statement of warrants drawn by the Auditor on the Treasurer during twelve months, ending on and including the 10th day of October, 1821—shewing the amount drawn for each source of expenditure, the amount of warrants paid and unpaid in the same period, viz.

Band stock fund,	\$12,826 10
Commissioners of navigation,	60 86
Dividends on bank stock, (for error in the president's report,)	60 75
Tax on bank stock, (agreeably to an act of assembly passed Oct. ses. 1820, to refund tax for 1819, paid by independent banks,)	1,961 02
Loans to the Penitentiary,	22,189 12
Public roads,	30 00
Sergeant of the court of appeals,	250 75
Drawbacks on vacant lands,	16 66
Pensioners,	30 00
Slaves executed,	2,110 00
State boundary line, (see act of assembly of 1819, page 924.)	500 00
Money refunded for taxes twice paid, &c.	186 63
For the salaries of the executive and judiciary departments,	29,879 94
Attornies for the year 1819,	703 25
Public communications,	831 40
Purchasers of non-residents' lands,	1,259 45
Military expenditures,	497 82
Surveyors (including the amount paid for surveying the lands west of the Tennessee river, and to surveyors for transcribing and filing entries in the land office,)	5,785 05
Sheriffs for revenue of 1819,	77 02
	79,255 82

Amount brought forward,	79,255 82
Contingent expences, including the costs of distributing the acts and journals of the last session of the legislature; also, the costs for transcribing certain records of Fayette county, agreeably to an act of assembly for said purpose, passed January, 1818, and appropriation bill, 1819, Government House,	2,885 77
Appropriations October session, 1820, including the compensation of the several officers of the legislature, public printing, fuel and all other expences enumerated in the bill, except the compensation of the speakers to each house,	2,000
Sheriffs comparing polls,	8,617 32
Legislature, October session, 1820, including the daily attendance and mileage of the members, and compensation to witnesses attending committees,	856 02
Commissioners of tax,	22,038 79
Electors,	7,138 25
Bank of the Commonwealth of Kentucky, (see act of assembly, Oct. session, 1820,)	170 72
Executive offices, for fuel, stationary &c.	7,000
Lunatics,	2,606 41
Criminal prosecutions,	14,177 76
Attornies,	11,885 95
Jailers, for attending on circuit courts, dieting criminals, &c.	6,647 67
Littell's laws of Kentucky,	6,316 16
Clerks' services, including exofficio services, copying commissioners' books, books and presses for the use of their offices,	90
	7,850 42
Total amount,	\$179,537 06
Warrants unpaid that issued, in 1794,	9 61
Also, warrants unpaid on the 10th of Oct. 1820, that issued since the 10th of November, 1809, all others issued anterior to the last mentioned date, (except the above that issued in 1794) are presumed to have been paid,	
	247 15
	\$179,793 82

Warrants reported by the treasurer to have been paid on the 10th of October, 1821, (see statement No. 1.)

179,531 75

Warrants unpaid the 10th October 1821,

\$262 07

No. 3.

A statement of balances due to government on the 10th of October, 1821, viz.

Of the Revenue collectable by sheriffs, there

is due for the year	1793,	104 06
Ditto	1794,	138 61
Ditto	1796,	1,845 36
Ditto	1798,	191 36
Ditto	1799,	217 25
Ditto	1800,	172 26
Ditto	1802,	31 99
Ditto	1803,	1,662 21
Ditto	1806,	613 26
Ditto	1807,	279 43
Ditto	1809,	48 58
Ditto	1811,	52 44
Ditto	1815,	10 26
Ditto	1817,	2,385 94
Ditto	1818,	802 64
Ditto	1819,	4,093 58

Debts receivable,

7,127 84

Commissioners of navigation,

1 82

Tax on independent banks for tax of 1818,

1,105 06

Penitentiary for loans,

18,327 92

Clerks for taxes,

2,972 23

Total debts due,

\$42,094 10

No. 4.

A statement of balances due from the government on the 10th of Oct. 1821, and of which the amount in the treasury on the same day is, under the existing laws, subject to the payment, viz.

Sheriffs of 1813, for amount overpaid,	\$69 02
Ditto 1814, ditto,	20
Bank stock fund,	2,261 11
Attornies for 1819,	138 55
	2,488 68

Amount brought forward,	2,488 68
Purchasers of non-residents' lands,	400 7 1/2
Warrants unpaid,	262 07
Salaries,	2,755 00
Attornies,	806 57
Total amount of debts due,	\$6,713 06

No. 5.

A statement shewing the probable amount of expenditures of the government for the year to end on the 10th day of October, 1822, viz.

For the annual salaries of the officers of the executive department,	8,100
For the salaries of the judiciary, attorney general and district attornies,	25,700
Exofficio services of clerks' copying lists of taxable property, books, presses, &c.	8,000
Legislature, October session, 1821, including the pay of members and officers, fuel, stationary and witnesses attending committees,	32,000
The sergeant of the court of appeals, for attending on said court and general court,	900
Military expenditures,	600
Postage,	1,200
Pensioners,	90
Sheriffs' comparing polls,	800
Criminal prosecutions,	13,000
The execution of slaves,	3,000
For the support of lunatics,	15,000
Printing and binding the acts and journals of October session, 1821,	3,800
Jailers' attending circuit courts, dieting criminals, &c.	6,500
Commissioners of revenue tax,	7,500
Contingent expences,	3,000
Fuel, stationary, &c. for public offices,	2,600
Surveyors for copying entry books, in compliance with the act of December session, 1819,	1,200
For running and marking boundary line between this state and state of Tennessee,	1,500
Monies to be refunded for taxes twice paid, &c.	500
Total amount,	154,190

No. 6.

A statement of the amount of moneys which is expected will be paid to the treasurer in the year to end on the 10th of October, 1822. subject to the expences of government. viz.

The gross amount of revenue collectable by sheriffs for the year. 1820, and payable on the 1st Monday in December next, is, 88,372 99

The average loss on the collection of revenue by sheriffs, including commission for collecting, insolvents, and sums paid by sheriffs under the act giving compensation for killing wolves, it is presumed will be 20 per cent, amounting to

17,674 75—70,698 24

Of which said revenue was paid previous to the 10th of October, 1821,

1,130 89

There are annually delinquencies on the part of sheriffs, from one to six thousand dollars—it is supposed it will amount in the ensuing year to

2,000 00—3,130 89

Which will leave a sum that may be expected with some certainty to be paid in the ensuing year, of

67,567 35

From clerks, for tax on law process, deeds, seals, &c.

10,000

The register of the land office,

700

Secretary of state,

50

From non residents, for tax on lands,

3,000

The Bank of Kentucky, for the tax on stock owned by individuals,

7,500

The Bank of Kentucky, for the dividends on 596,700 dollars stock owned by the state in said institution for the ensuing year, at 6 per cent.

35,800

Of the balances stated to be due the government as in statement No. 3, there will be collected on account of the revenue due from sheriffs,

6,800

Of the balances due from clerks, there will be collected,

1,300

Of the other balances due, no part is expected to be collected.

Amounting in the whole to

132,717 35

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17843

JOURNAL OF

Amount brought forward,	132,717 35
To which add the balance in the treasury on the 10th of October, 1821,	73,810 78
	206,528 16
From which deduct for balance due from gov- ernment on the 10th of October, 182., as per statement No. 4,	6,713 06
Also the amount of statement No. 5,	134,190 00—140,903 06
The probable balance which is expected to be in the treasury on the 10th day of Oct. 1822,	65,625 07

No. 7.

A statement of the situation of the Penitentiary.

MANUFACTURES.

From the 1st of October, 1820, to the 1st of October, 1821,
the agent's receipts to the keeper are for

Blacksmiths' work,	2,275 01
Shoes,	5,082 55
Cut nails,	5,257 35
Head nails,	200 42
Chairs,	546 04
Stone work,	1,224 54
Brushes,	81 87

Total amount of agent's receipts,	14,667 78
The keeper consumed in the manufacturing of the above articles, raw materials to the amount of	8,493 51

Gross profit of articles manufactured,	6,174 27
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The expences of the institution in the same period are,

For diet,	2,916 27
Clothing,	382 23
Fuel.	195 11
Guards,	1,200
Contingencies,	3,894 48

The agent's and keeper's salaries, commissions. and the pay of an assistant keeper.	2,903 39—11,491 48
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Gross profit of manufactured articles as above,	6,174 27
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Leaving a balance against the institution of	5,317 21
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24251

THE SENATE.

THE KEEPER.

There was due to him on the first day of October, 1820,

1,672 88

He has expended from that period to the 30th of September, 1821, as enumerated in the manufacturing account,

8,588 09

In the same period for raw materials,

8,325 63

Total,

18,586 55

He has received from the treasury in the same period,

17,633 53

Due the keeper first October, 1821,

953 02

LOANS.

There was due to government for loans, on the first day of October, 1820,

20,876 05

From the first of October, 1820, to the 30th of September, 1821, warrants were drawn on the treasurer for the purpose of purchasing raw materials, to the amount as stated above,

17,633 53

Also, for the payment in part of the compensation due to the agent and keeper,

3,078 42

Total,

41,588

Paid by the agent to the treasurer in the year ending 30th September, 1821,

For debts,

19,677 70

Sales,

4,616 33

Costs,

655 85

Interest,

471 12 — 25,421

Due to the government on the first day of October, 1821,

16,167 00

RAW MATERIALS

On hand the first of Oct. 1820,

3,108 63

Purchased in the year ending 1st of October, 1821,

8,325 63

Total amount of raw materials,

11,434 26

Consumed in the manufactures in the same period,	8,493 51
On hand,	2,940 75

SALES.	
Sold in the year ending 30th September 1821, on a credit,	13,242 55
For cash,	4,616 33
Total sales,	17,858 88

THE AGENT.	
There was in his hands on the 1st of October, 1820, debts and manufactured articles to the amount of	61,418 47
From that period to the 1st of October, 1821, he has been charged with manufactured articles to the amount of	14,667 78
With costs received,	655 85
Interest do.	471 12
Total charged,	77,213 22

In the same period he has been credited,	
By costs paid,	617 73
Discounts made on sales, &c.	1,768 33
Moneys paid into the treasury,	25,421 00
	27,807 06

Balance in the hands of the agent on 1st of October, 1821,	49,406 16
The general account of the institution was on the 1st of October, 1821—	

CREDITS.	
By effects in the hands of the agent,	49,406 16
Raw materials on hand,	2,940 75
	52,346 91

DEBTS.	
Loans due to the state,	16 67
Due to the keeper,	953 02
Due for a debt contracted by the keeper,	9,000
Due to the agent and keeper for compensation,	867 90
	26,987 92

Nominal value of said institution on the 1st of October, 1821,	25,358 99
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I cannot close this communication without suggesting to the legislature, that from the want of an official channel of communication between this office and the Bank of the Commonwealth of Kentucky, my report has been confined to those branches of the revenue, that had existed anterior to the last session of the legislature, and of course will be inadequate to represent the real situation of the fiscal concerns of the government.

It would seem, from the 5th section of the act incorporating the Bank of the Commonwealth of Kentucky, that the legislature intended that the dividends arising from the state's stock in the Bank of Kentucky, not otherwise appropriated, should be immediately set apart as composing one item of the stock in the first mentioned institution, which is pledged for the redemption of their paper, and no doubt will be done immediately that the legislature will point out the time and mode of doing it. It will be further seen, from the 24th section of the above recited act, that the interest arising from the loans and discounts made by the Bank of the Commonwealth, after the payment of all the necessary expences of the said institution, is to form a part of the revenue of the state, subject to the disposition of the legislature. It therefore remains with the legislature to point out the proper method whereby this office can be supplied with the necessary information in relation to all the finances of the government.

All of which, are respectfully submitted to the senate.

PORTER CLAY, AUD.

Auditor's Office, 17th Oct. 1821.

An engrossed bill, entitled "an act to authorise the appointment of two additional constables in Madison county," was read the third time,

Resolved, That the said bill do pass, and that the title be "an act authorising the appointment of additional constables in certain counties."

Ordered, That Mr. Jones inform the house of representatives thereof, and request their concurrence.

Mr. Speaker laid before the senate a letter from the president of the Bank of Kentucky, covering a statement of the names, &c. of those who wish to withdraw their stock from that institution, which were severally read as follows :

BANK OF KENTUCKY, October 17th, 1821.

My dear Sir:

IN conformity to the 14th section of the act to amend and extend the charter of the Bank of Kentucky, approved 26th December 1820, I herewith enclose a list of the persons who have signified their intention, in the manner prescribed by that section, of withdrawing, at the expiration of the present, or old charter, their stock from the institution; together with a list of the number of shares held by each person respectively.

I am, dear sir, very respectfully,

J. HARVIE, *Pres't.*

The honorable Speaker of the Senate.

A list of the stockholders who have notified the Bank of Kentucky of their wish to withdraw their stock, under the act to amend and extend the charter of the Bank of Kentucky, approved December 23, 1820.

<i>Date of notice.</i>	<i>No. shares.</i>	<i>Persons withdrawing.</i>
1821—March 13	24	Benjamin Edwards.
1820—Dec'r. 27	20	Tho. C. Howard, ex'r. of S. Johnson.
1821—Jan'y. 15	2	George Finley.
March 19	20	Humphrey Jones.
	15	Curtis Field.
	10	Field and Burkrum.
	33	Thompson Burnham & Co.
	10	Thompson Burnam.
	9	Edward Morris.
	10	F. C. Sharp.
	20	John D. Patton.
	25	Sharp and Miller.
	20	D. S. Patton.
	85	Maxwell Sharp.
	25	Russell Lewis.
April 4	6	John Barret.
	4	Martin Kelly.
	5	Wm. H. Eooth.
March 19	20	Wm. D. Barret.
April 5	5	Samuel Poston.
	10	Robert Scobee.
	14	Stephen Scobee.
	10	Kitty Scobee.
	1	John Gardner.
	1	William Poston.
	16	George Martin.
	4	John Strode, sen.
	4	

THE SENATE.

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<i>Date of notice.</i>	<i>No. shares.</i>	<i>Persons withdrawing.</i>
1820—Dec'r. 12	1	John Gibbs.
	4	David Brandenburg.
1821—April 12	25	Jeremiah Clemens.
	10	55 Barnabas Hughes,
	12	15 Richard Ship.
	16	13 James Ward.
	19	40 Henry Miles.
	16	27 Green Clay.
	12	5 John Glover.
	21	8 Samuel Taylor's administrators.
1820—Dec'r. 22	45	John Lancaster.
1821—April 15	10	Francis Wells.
	18	22 Anthony W. Rollins.
	19	35 John Duncan.
	20	15 E. B. Edwards.
		10 Nathan Lipscomb.
		7 William Black.
	21	2 Richard Oldham.
	23	15 Isaac Cunningham.
		20 Abraham Inskeep.
		43 Daniel Tebbs, guardian for the heirs of Samuel Tebbs.
		10 Daniel Tebbs, trustee for S. G. Tebbs.
		5 Overton Harris.
		67 James Estill.
	24	5 Wallis Estill.
		50 Robert Rodes' executors.
		5 Thomas Scott.
		9 A. Hanks.
	27	10 J. R. Thornton.
		18 Ben. Mills.
	24	42 William P. Fleming.
		10 Tho. W. and W. P. Fleming.
		5 George Glass.
	30	5 Abner Oldham.
	28	20 D. M. Hickman.
	30	5 Sally Jones.
		5 Jos. Berry and Jane C. Berry.
		110 Presley Talbott.
	25	5 Absalom M. Sharp.
		20 James Crutcher.
		28 Durret White.
		40 William Atharp.

1833 Total shares.

On the 24th May 1821, James Armstrong filed a notice of his wish to withdraw ten shares; and on the 30th day of June 1821, John U. Waring also filed a notice of his wish to withdraw two shares.

On the motion of Mr. Flournoy, permission is given Mr. Dana to occupy a seat in this chamber, for the purpose of noting and reporting the proceedings and debates of the senate.

And then the senate adjourned.

THURSDAY, OCTOBER 13, 1821.

The senate assembled.

A message from the house of representatives, by Mr. Murray :

Mr. Speaker—The house of representatives have appointed a committee of enrolled bills on their part.

And then he withdrew.

Mr. Given presented a memorial from the citizens resident on the lands south and west of the Tennessee river, praying to be permitted to secure the title of the lands on which they have respectively settled, by pre-emption right, at a certain price and under indulgence of credit; which was received, read and committed to the committee of propositions and grievances.

The Speaker laid before the senate a letter from the treasurer, covering his official annual statement, which were read as follows :

TREASURER'S OFFICE, 17th October, 1821.

Sir :

YOU will please lay before the honorable house over which you preside, the enclosed statement, which gives a concise view of the situation of the treasury department, from the 11th day of October 1820, to the 10th day of October 1821, inclusive.

I have the honor to be, very respectfully,

Your obedient humble servant,

SAM'L. SOUTH, Tr.

*Honorable William T. Barry, Lieut. Governor
and Speaker of the Senate.*

THE SENATE.

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A STATEMENT

Of Moneys received and paid at the Treasury in the year 1821, commencing on the 11th day of October 1820, and ending on the 10th of October 1821, inclusive, together with the amount of Money in the Treasury on the 10th of October 1820.

RECEIPTS.

For amount received on vacant lands,	10,605	43	
Ditto head-right lands,	2,924	40	
Ditto manufacturing salt,	673	40	
Ditto Tellico lands,	21	00	14,224 23
Ditto Penitentiary,			25,818 00
Ditto Secretary of State,			62 70
Ditto register of the land-office,			730 09
Ditto miscellaneous receipts,			23 86
Amount brought forward,			40,858 88
Ditto sheriffs,			78,611 22
Ditto clerks,			12,676 77
Ditto tax on bank stock,			7,897 87
Dividends on bank stock of Kentucky, up to the 31st of January 1821,	20,177	33	
Ditto to the 1st of July 1821,	17,901	00	38,078 33
Money received on non-residents' lands,			4,424 14
Ditto fines,			105 00

Total amount received in 1821. \$ 182,652 21

To amount in the treasury on the 10th Oct. 1820, 70,570 32

Total amount, \$ 253,342 53

This statement exhibits the amount of Money paid for War-rants drawn on the Treasury from the 11th of October 1820, to the 10th of October 1821, inclusive.

For amount subscribed and paid to the Com-monwealth's Bank, as stock,	12,800	00
Drawback on vacant lands,	7	40
Penitentiary, for loans, &c.	22,189	12
Amount paid the President and Directors of the Commonwealth's Bank, to enable them to procure plates, &c. pursuant to the 28th section of its charter,	7,000	00
Government house,	2,000	00
Legislature, October session 1820,	22,022	52

\$ 66,019 04

Amount brought forward,	66,019 82
Appropriation,	8,740 61
Littell's Laws of Kentucky,	90 00
Surveying state land south of Tennessee river,	5,669 50
Criminal prosecutions,	12,415 12
Support of lunatics,	14,112 76
Judiciary department,	29,788 45
Executive department,	7,777 46
Clerks of circuit and county courts,	7,932 26
Jailers do. do.	6,279 91
Sheriffs comparing polls,	978 50
Commissioners of taxable property,	7,235 64
Purchase of non-residents' lands,	1,345 33
Contingent expences,	262 81
Executive offices,	2,381 28
Military expences.	837 80
Copying certain surveys,	1,205 51
Distributing acts of assembly,	1,018 10
Negroes executed,	2,090 00
Postage on letters,	831 40
Sergeant court of appeals,	231 00
Tax on bank stock,	2,084 60
Pensioners,	30 00
Money refunded,	174 67

Total amount, \$ 179,531 75

Aggregate amount of receipts, including money
in the treasury on the 10th of Oct. 1820, 253,342 53

Amount paid, same time, 179,531 75

Cash in the treasury on the 10th of Oct. 1821, \$ 73,810 73

Paid over to the Commonwealth's Bank, pursuant to the 35th section of its charter, all the moneys in the treasury not otherwise appropriated, amounting to sixty-one thousand dollars; also, twelve thousand eight hundred dollars subscribed as stock to said institution, pursuant to the 5th section of said charter; also, seven thousand dollars paid to the President and Directors, to enable them to procure plates. &c. pursuant to the 28th section; making in the total, eighty thousand eight hundred dollars.

There has been quietus issued from this office, pursuant to the certificates filed, issued from the auditor's office agreeable to the act of the general assembly, approved the

21st of December 1820, in favor of poor widows, two thousand and six hundred acres of land.

The foregoing statement is respectfully submitted to the senate.

SAML. SOUTH, TR.

The following bills were presented from the several committees appointed to prepare and bring in the same, viz.

1. By Mr. M'Affee—A bill to amend the act entitled "an act to regulate endorsements on executions."

2. By Mr. Bowmar—A bill for the benefit of John M'Kinney, late deputy sheriff of Jessamine county.

3. A bill to regulate suits on bills of exchange and promissory notes.

4. By Mr. Carneal—A bill for the benefit of the wife and children of Benjamin Herndon. And

5. Mr. White obtained leave to report a bill giving further time to the court of Henry county to make out and return their lists of taxable property for the year 1821.

Which were severally read the first time; and the rule being dispensed with, the latter bill was read a second time, and ordered to be engrossed and read a third time.

Mr. Carneal, from the committee to whom was referred that part of the governor's message relative to imprisonment for debt, presented the following resolutions, viz.

Resolved, That imprisonment for debt ought to be abolished in this commonwealth, with certain restrictions, in cases of fraud or where the party charged in execution is about to abscond.

Resolved, That a committee of five members be appointed to bring in a bill conformable to the foregoing resolution.

Which being severally twice read, were committed to a committee of the whole house on the state of the commonwealth for Tuesday next.

Leave was given Mr. M'Affee to bring in a bill to amend the act establishing a library at the seat of government; and Messrs. M'Affee, Marshall and J. L. Hickman were appointed to prepare and bring in the same.

The following bills were severally read the second time, viz. A bill to amend the act to prevent frauds and perjuries, and a bill further to regulate the payment of the debt due the commonwealth for the sale of vacant lands.

The former was committed to a committee of the whole house on the state of the commonwealth, and the latter was ordered to lie on the table.

And then the senate adjourned.

FRIDAY, OCTOBER 19, 1821,

The senate assembled.

It was signified to the senate that the lieutenant governor was absent on necessary business, and would not resume the chair until Tuesday next.

Whereupon Mr. Richard Hickman was unanimously chosen Speaker for the occasion; who was conducted to the chair, from whence he made acknowledgments for the honor conferred.

Mr. Owens presented a petition from John White and others, praying that the state price may be remitted on certain lands therein mentioned; which being received, was read and referred to Messrs. Owens, White, Pickett and Given.

Mr. Given presented a petition from Margaret Watson, praying that the state price may be remitted on certain land mentioned therein, which was received, read and referred to the same committee.

The following bills were presented from the several committees appointed to prepare and bring in the same, viz.

1. By Mr. M'Afee, a bill to amend the militia law.
2. By Mr. Owens—A bill for the benefit of John White.
3. By Mr. M'Afee—A bill providing for the sale of the lands west of the Tennessee river.
4. By Mr. Ewing, from the committee of propositions and grievances—A bill to remove the seat of justice of the county of Owen.

Which were severally read the first time, and ordered to be read a second time.

On the motion of Mr. Ewing, the rule was dispensed with, and the third bill was read a second time and committed to a committee of the whole house on the state of the commonwealth.

Ordered, That one hundred and fifty copies of the said bill be forthwith printed by the public printers, for the use of the legislature.

Mr. M'Afee, from the committee on a branch of the governor's message, presented the following resolutions, viz.

1. *Resolved*, That the Bank of the Commonwealth of Kentucky ought to be sustained with all the power and resources of the state.

2. *Resolved*, That a portion of the lands west of the Tennessee river ought to be sold, and the proceeds paid into said bank.

3. *Resolved*, That the time of the loans and the amount of the calls of the Bank of the Commonwealth are highly approved and ought to be continued, as compatible with the best interests of the state.

4. *Resolved*, That the Bank of Kentucky ought to receive the notes of the Bank of the Commonwealth, in the payment of debts and interest, and re-loan the same, where it can be done with safety, upon liberal terms.

Which being read were committed to a committee of the whole house on the state of the commonwealth.

Leave was given to bring in the following bills, viz.

1. On the motion of Mr. Pope—A bill to amend the law limiting the time of bringing suits.

2. On the motion of Mr. Owens—A bill to amend the several acts concerning the assignment and relinquishment of dower.

3. On the motion of Mr. White—A bill to amend the law respecting the conveyance of land.

Messrs. Pope, Worthington and Dollerhide were appointed a committee to prepare and bring in the first; Messrs. Owens, Flournoy and White, the second; and Messrs. White, Barbee and Owens, the third.

The following bills were severally read the second time, viz. 1. A bill to amend the act entitled "an act to regulate endorsements on executions;" 2. a bill regulating suits on promissory notes and bills of exchange; 3. a bill for the benefit of the wife and children of Benjamin Herndon; 4. a bill for the benefit of John M'Kinney, late deputy sheriff of Jessamine county.

The first, third and fourth were ordered to be engrossed and read a third time to-morrow. The second was committed to Messrs. Crutcher, Montjoy and Flournoy.

An engrossed bill giving further time to the county court of Henry county to make out and return their lists of taxable property for the year 1824, was read the third time.

Resolved, That the said bill do pass, and that the title be "an act giving further time to the county court of Henry county to make out and return their lists of taxable property for the year 1821."

Ordered, That the clerk do carry the said bill to the house of representatives and request their concurrence.

Mr. Jones moved the following resolution; and the rule being dispensed with, it was twice read and agreed to, viz.

Resolved by the general assembly of the Commonwealth of Kentucky, That a joint committee of three from the senate

and six from the house of representatives, be appointed to examine and report the state of the treasurer's office ; and that four from the senate and eight from the house of representatives, be appointed to examine and report the state of the register's office ; and that five from the senate and ten from the house of representatives, be appointed to examine and report the state of the auditor's office ; and that six from the senate and twelve from the house of representatives, be appointed to examine and report the state of the penitentiary.

Ordered, That the clerk acquaint the house of representatives therewith and request their concurrence.

A message from the house of representatives, by Mr. Alexander :

Mr. Speaker—The house of representatives have passed a bill entitled "an act declaring part of Floyd's Fork navigable;" in which they request the concurrence of the senate.

And then he withdrew.

The bill was read the first time and ordered to be read a second time.

Mr. Bowmar offered the following resolution ; and the rule being dispensed with, it was twice read and agreed to.

Resolved by the General Assembly of the Commonwealth of Kentucky, That a committee of four from the senate and nine from the house of representatives, be appointed to examine the Bank of Kentucky, and to report specially the amount of the capital stock of said bank and its branches, distinguishing therein the amount owned by the commonwealth, and the amount owned by individuals ; also the amount of debts due the same, the money deposited therein, the notes in circulation, and the specie in the principal bank and each of its branches, and such other matters and information in relation to the said bank and its branches, as they may deem material. And that they have power to send for persons, papers and records.

Ordered, That the clerk acquaint the house of representatives therewith and request their concurrence.

And then the senate adjourned.

SATURDAY, OCTOBER 20, 1821.

The senate assembled.

Messrs. Slaughter and Faulkner appeared and took their seats.

Mr. Ewing presented a petition of Charles Brandon, praying that he may be permitted to build a mill west of the Tennessee, on Bloody river, and to take up a certain quantity of land around and adjoining thereto.

Mr. Given presented a petition of John Berry, late deputy sheriff of Livingston, praying that a law may pass authorising him to be allowed credit for certain delinquent militia fines.

Which being received, were severally read and referred—the former to the committee of propositions and grievances, and the latter to messrs. Given, Davidson and Ewing, with power to report, each or either, by bill or otherwise.

The following bills were presented from the several committees appointed to prepare and bring in the same, viz.

By Mr. Pope—A bill to amend the law limiting the time of bringing suits.

By Mr. White—A bill to increase the number of judicial districts and to regulate the terms of the several circuit courts.

Which were received and severally read the first time and ordered to be read a second time.

The following bills were severally read the second time, viz. A bill from the house of representatives, entitled “an act declaring part of Floyd’s Fork navigable;” a bill to amend the militia laws, and a bill for the benefit of John White.

The first was ordered to be read a third time; the second, with an amendment offered by Mr. Gorin, was committed to messrs. Flournoy, M’Afee, Davidson, Gorin, Williams, Beauchamp and Faulkner; the third was ordered to be engrossed and read a third time on Monday next.

The following engrossed bills were severally read the third time, viz. A bill for the benefit of John M’Kinney, late deputy sheriff of Jessamine county; a bill to amend the act entitled “an act to regulate endorsements on executions;” a bill for the benefit of the wife and children of Benjamin Herndon.

The first was committed to messrs. Given, M’Afee and Ewing.

Resolved, That the second bill do pass, and that the title be "an act to amend the act entitled an act to regulate endorsements on executions."

Ordered, That Mr. M'Afee do carry the said bill to the house of representatives and request their concurrence.

The third bill was ordered to be laid on the table.

Leave was given to bring in the following bills, viz.

1. On the motion of Mr. Roper—A bill to restrain the sending away of slaves and servants to other countries as merchandize.

2. On the motion of Mr. Beauchamp—A bill to amend an act entitled "an act regulating divorces in this commonwealth," approved January 31, 1809.

3. On the motion of Mr. Owens—A bill to amend the several acts directing the course of descents.

4. On the motion of Mr. M'Afee—A bill to regulate trials of the right of property. And

5. On the motion of Mr. Jones—A bill to amend the laws in relation to executions.

Messrs. Roper, Marshall and Jones were appointed a committee to prepare and bring in the first; messrs. Beauchamp, Dawson, Williams, M'Afee, Pope, White and Ewing, the second; messrs. Owens, Flournoy, Beauchamp, Marshall, Pope, Ewing and M'Afee, the third; messrs. M'Afee, Crutcher and Pope, the fourth; and messrs. Jones, Ballinger and Flournoy, the fifth.

Mr. Roper, from the first committee, presented a bill, which was received and read the first time and ordered to be read a second time.

A message from the house of representatives, by Mr. Yancey:

Mr. Speaker—The house of representatives have passed bills of the following titles, viz. An act to amend an act entitled "an act to establish a turnpike by the way of Williamsburg;" an act to authorise the editors of certain newspapers to insert in their papers certain advertisements; and an act for the benefit of Paul Durrett, of Montgomery county; in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Cosby:

Mr. Speaker—The house of representatives have passed a bill entitled "an act giving the judge of the thirteenth ju-

judicial district further time to move into and reside in the same;" in which they request the concurrence of the senate.

And then he withdrew.

Mr. Given moved for leave to bring in a bill to establish counties on the south-west side of the Tennessee river; and the question for leave being propounded from the chair, Mr. Owens objected to the leave, as being premature, illegal and contrary to the rules of the senate.

The Speaker determined that the motion for leave was in order; that the act of the general assembly, entitled "an act concerning public advertisements in certain cases," to which the gentleman alluded, and the rule of the senate, copied therefrom, were irrelevant and did not touch the present question.

Whereupon Mr. Owens appealed from the decision of the chair; and the question being discussed, it was resolved in the affirmative—Yeas 17, nays 11.

The yeas and nays being required by messrs. Owens and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Barbee, Beauchamp, Davidson, Ewing, Ford, Given, J. L. Hickman, R. Hickman, Jones, Lackey, Montjoy, Pickett, Slaughter, Smith, D. White, jr. Williams, and Worthington.

Those who voted in the negative, are, Messrs. Ballinger, Dawson, Dollerhide, Faulkner, Flournoy, Gorin, Marshall, Owens, Pope, Roper and Throckmorton.

Ordered, That messrs. Given, M'Affee and Ewing be a committee to prepare and bring in the bill.

Mr. Speaker laid before the senate a letter from the President of the Bank of the Commonwealth, covering a report of the proceedings, situation, &c. of the institution, which were ordered to be laid on the table, viz.

BANK OF THE COMMONWEALTH, Oct. 20, 1821.

Sir:

AS required by law, I herewith transmit to the honorable body over which you preside, a report of the proceedings, situation, &c. of the Bank of the Commonwealth of Kentucky.

The documents and tables which are referred to, have been sent to the house of representatives, and will, no doubt, be very promptly communicated to the senate. It would have afforded the President and Directors much satisfaction,

to have had it in their power to have furnished both branches of the legislature with copies of those documents and tables; but they are so voluminous, and have been so lately received, that it was altogether impossible to have duplicates prepared.

I have the honor to be, with great respect,
Your obedient servant,

J. J. CRITTENDEN, *President*

Bank Com. Ken.

The honorable Richard Hickman, Esq.

Speaker pro tem. of the Senate.

TO THE MEMBERS OF THE SENATE AND HOUSE OF REPRESENTATIVES.

THE President and Directors of the Bank of the Commonwealth of Kentucky, submit the following report of their proceedings and situation :

Anxious to fulfil the purposes of the legislature and the expectations of the country, as soon after the election of the directors as it was practicable, a board was formed, and measures adopted for organizing the bank and putting it into operation as speedily as possible. An agent, possessing the entire confidence of the directory, was immediately dispatched to Philadelphia, to procure the necessary paper, with instructions to employ the first artists, and to have the notes for this bank executed in the best and most peculiar style. This was a work which required more labor and time than had been anticipated. The directory is satisfied that their agent discharged all the duties assigned him with the utmost zeal and diligence; and if they were disappointed in not receiving the paper earlier, it was attributable to their own miscalculation of the time necessary for its preparation.

The first parcel of paper for this bank, consisting of about 700,000 dollars, was received here on the 10th day of April last. Other parcels have been successively forwarded, amounting in the whole to about the sum of 2,500,000 dollars; and there yet remains to be received, of the paper ordered and contracted for, the amount of 500,000 dollars. According to the engagement of the artist who was employed, this parcel ought, some time ago, to have been received.

Since the arrival of the first parcel of paper, the officers of the bank have been industriously and zealously employed in preparing it for circulation; and the whole amount received for the branches, has been signed and distributed,

with the exception of a small parcel of five dollar notes for the Louisville branch, which will be prepared and forwarded in a few days.

Exercising the discretion given by the 6th section of the supplementary law, the directory unanimously determined to issue notes to a larger amount than was authorised by the original act; and have accordingly proceeded to prepare and to put into circulation, as fast as it was practicable, all the paper received, amounting to about 2,500,000 dollars.

The directory is sensible of the high responsibility of the discretion confided to them in this particular. They have not, however, shrunk from the exercise of it; nor will they. But, as the general assembly is now in session, and is so much more competent to the exercise of such a discretion, it will be acceptable to the directory to receive from your honorable body, some further direction as to the half million of notes which yet remains to be received and is daily expected.

Various difficulties attending the organization of the bank and the apportionment of its paper, and the manner in which they were surmounted, will be seen by reference to the minutes of this board. But some of the rules provided for the organization and management of this institution, differ so materially from the usual course of banking, that it may be proper briefly to submit the reasons which led to their adoption.

The act incorporating the bank contemplates, in express terms, the extension of loans for longer periods than had been usual in other banking institutions. The only question with the directory was, as to the limit of this extension. In determining this point, there were two arguments which weighed upon their minds, influencing them in contrary directions: On one hand, the convenience of borrowers; and on the other, the safety of the bank. The convenience of the borrowers, most of whom would necessarily reside at a considerable distance, urged the extension of loans to the utmost limit allowed by the act of incorporation; but the uncertainty which, in the first moments of its operation, attended the credit of an institution established on principles somewhat novel, counselled them not to put it out of their power to counteract any sudden and unexpected depreciation of their paper, by prompt calls upon their debtors. As the safety of the bank was essential to the ultimate convenience and relief of the community, this consideration

was deemed paramount to every other; and it was thought prudent, if not absolutely necessary, to limit the duration of loans on personal security to four months, and on real security to six.

The directory are happy to state, that the general currency and credit of their paper within the state, has hitherto precluded the necessity of extraordinary calls.

The most material deviation from the usual practice of banks, will be found in the regular system of calls at the rate of one per cent per month, which has been introduced by the directory of this institution. This measure was dictated by considerations of sound policy, justice to the community, the credit of the bank and the interest of the borrowers.

It is universally admitted, that numberless evils have arisen from the credit, unlimited in point of time as well as in amount, which has been extended to individuals in the various banking institutions, not only of this state, but of the whole federal Union. Our citizens have dealt on borrowed capital, as if it were their own, calculating only on the payment of discounts, apparently forgetting that the pay day of the principal would ever arrive, and so incorporating it with their business and private fortunes that its collection could not be enforced without serious inconvenience, if not actual oppression. But this is not the only evil. In many instances, by lapse of time and change of circumstances, the security has been so materially impaired, that a final recovery of the debts has been rendered difficult, if not impracticable. The wisdom of the legislature guarded with sufficient caution against the unlimited extension of credit in point of amount, but it was left to the directory to guard against the evils which might arise from a similar indulgence in point of time. To effect this object, so strenuously demanded by every consideration of sound policy, it appeared to them that there was no mode so effectual as a system of moderate calls, which should constantly remind their debtors that the borrowed capital was not their own, and at the same time, by gradual and almost imperceptible degrees, extinguish their debts.

It was anticipated, and has since been proved by experience, that but a small portion of the community, and even not all of the necessitous, could obtain accommodations at this bank. It requires no argument to prove the injustice of permitting one set of borrowers to monopolize indefinitely, to the exclusion of a majority of the people, the funds of an

institution created for the common benefit. If advantages are derivable from bank accommodations, it is the duty of this bank, above all others, to distribute its favors as generally and as impartially as possible. But there is no mode by which this obvious duty can be effected, but by calling from one set of borrowers and lending to another; thus circulating the funds of the state, if not through every hand, at least through the hands of every man to whom misfortunes may render necessary the extension of public benevolence. This just and beneficent object, the directory have attempted to effect by a system of calls so gentle, that they cannot oppress the debtors of the bank, while they afford at every discount day a small sum to be loaned to needy applicants.

But the credit of the bank was not the least consideration which weighed upon the minds of the board in the adoption of this rule. It is a principle universally admitted, that the credit of a paper currency irredeemable in specie, depends entirely upon the profitable uses to which it can be applied by its holders. The directory foresaw that the great demand for their paper created by the collection of the debts which had been accumulating for several years, would be sufficient for a time to sustain its credit; but that this demand would rapidly diminish, and finally cease with the extinguishment of the debts which caused it. On the consummation of this process, which is already far advanced, they saw that the bank would be thrown almost entirely upon its own resources, and could rely on nothing to sustain the currency of its paper, but the limited means of redeeming it furnished by its own operations and the acts of the legislature. That these were entirely inadequate to support the credit and maintain the currency of two and a half or three millions of dollars, was indicated, not only by the plainest results of reasoning upon the present condition of our own country, but by the experience of other states and other times. Under these circumstances, it was thought important, by a system of regular calls, to create a new and constant demand for their paper, which, added to the demand already created by its reception in the payment of discounts and public dues, would be adequate, it was hoped, to support its credit and currency until the legislature should have time to provide more ample means for its redemption. Experience is daily making more apparent, the necessity of this measure as a means of supporting the credit of the bank.

It is believed, that the interest of the borrowers is materially promoted by this regulation. Nothing stimulates to industry and economy like the constant pressure of debt—

not so violent as to baffle the exertions of the debtor, but yet so considerable as to keep him upon the alert. Ingenuity is stimulated to the invention of new methods for making money, and many a dollar which would otherwise be expended to little purpose, is carefully preserved to meet the incumbent pressure. Debts are thus extinguished and the citizen becomes rich by a sure but almost imperceptible process. Such, it is believed, will be the operation of the present system of calls upon every poor but industrious citizen who borrows money from this bank.

In addition to these considerations, the directory believed that in this instance they were promoting the policy of the legislature from which their powers were derived. To provide a mode by which debts could be extinguished without oppression to the citizen, was the chief object of their legislation. This was not to be effected by loans with indefinite credit; but by furnishing and supporting the credit of an abundant circulating medium for the common benefit, and by enabling the citizen, in many instances, to transfer his debt to the bank, and there pay it off in moderate instalments. Surely no instalment law would be required more gentle in its operations than one which allowed eight years for the payment of debts, in equal instalments, payable in four or six months. This, together with a support of the credit of the bank and an impartial distribution of its funds, which could be effected only by a system of calls, must have entered into the policy which gave existence to this institution.

So far as the directory have had an opportunity of witnessing the effect of the present system, it has been most salutary. The calls are paid with unexpected punctuality; the debtors to the bank are kept upon the alert, and their debts are slowly but regularly diminishing; many have voluntarily paid the whole, or a large portion of their debts; the funds of the bank are constantly changing from hand to hand; the currency of the state, without being diminished, is made to circulate more briskly; the bank is able still to relieve, without being under the necessity of oppressing; industry and economy, all the energies of the people, are put in requisition to relieve the citizen from debt and the country from distress.

In dismissing this subject, this board will merely add, that a sister institution in Tennessee, apparently for the same reasons, has found it expedient to confine her loans to ninety days, and make a regular call of ten per cent. amounting to forty per cent. per annum.

At the principal bank, and it is believed at the branches generally, strict regard has been had to the provision of the act of assembly, which requires, that during the year, 1821. loans shall be made only for the purpose of paying the debts of the borrowers. In a few instances, by false representations, the directory has been induced to grant loans to individuals who had no rightful claim to the public benevolence. In these cases, it would have given pleasure to this board, if they had possessed the power to call in the full amount of the accommodations as soon as the notes became due.

One of the subjects which early attracted the attention of this board, was the relations which the Bank of the Commonwealth was to sustain with the Bank of Kentucky.—The latter institution being the greatest creditor in the community, had it in her power materially to affect the credit of the paper which was about to be emitted. It was the desire of this directory, that a general and reciprocal reception and exchange of paper, should be accorded to each other by the two institutions. At an early period, these sentiments were communicated to the President and Directors of the Bank of Kentucky. By the correspondence which ensued, this board became satisfied, that no arrangement mutually satisfactory, could be made between the two institutions, and the negotiation was discontinued. The proceedings of this board, as entered upon their minutes, and the correspondence between the two institutions, which is preserved in the archives, both of which, as matter of right, are subject to the inspection of the general assembly, will develop the manner in which this intercourse was carried on, and the reasons why no amicable arrangement could be ultimately effected.

On the failure of this negotiation, it remained for this board to pursue that policy towards the Bank of Kentucky, which should best support the honor and extend the usefulness of the institution which had been committed to their superintendence. The relief of the community was the great object which they had to accomplish. In proportion as the credit of this bank could be sustained, in the same proportion could its issues be extended, and its paper kept in circulation. There was already in the community, enough of enmity and distrust to produce a serious effect upon the credit and currency of its paper. It was no part of the duties of this board, to add to this enmity or increase this distrust. The means by which they could loan and preserve the credit, of the largest possible sum, not exceed-

ing three millions of dollars, were the sole considerations which regulated their conduct. If, by incurring the enmity of a single individual, they would have been disabled to give relief to one of their humblest fellow citizens, it was their duty to avoid it. In discounts and payments of every description, the Bank of Kentucky is now receiving at the rate of nearly 600,000 dollars per annum. An institution whose receipts are so enormous, necessarily possesses great power over the credit of any species of paper, which may be thrown into circulation within the state of Kentucky. The Board believed, that the usefulness of this bank and the interest of the community, would be much more effectually promoted, by causing the power of the Bank of Kentucky to operate in supporting the credit of their paper, than in destroying it. In the former case, their issues could be extended; more of their fellow citizens could be relieved from distress; and the confidence of the community, in the stability and credit of this bank, would be firmly established. In the latter case, their issues must have been materially curtailed; many who have now been rescued from ruin, must have been left to their fate; distrust, irritation and mutual recrimination, would have been engendered between the friends and advocates of the two banks, the consequences of which, could not have been other than fatal to public happiness, as well as to the benevolent objects which the last legislature were so eager to accomplish. The course of policy adopted by this board, was intended to avert all these evils, to enable them to issue the largest possible amount of paper, and support its currency until the meeting of the legislature, when it was anticipated, that such measures would be adopted as would establish more firmly, the credit of this institution.

By the transfer of the state's deposit, the Bank of Kentucky became indebted to this bank about 70,000 dollars; for which sum, the latter held the notes of that institution. In a few weeks after the bank commenced operations, and after the above transfer, the cashier of the Bank of Kentucky offered a considerable amount of the paper of this bank in part payment of this debt. The question was, whether this bank would, in this instance, receive its own paper in the payment of the debt due to it. In transactions between man and man, this proposition would hardly admit of a dispute. The obligation of a creditor to receive his own notes in payment, is not only recognized in the code of morality, but is enforced by legal enactments. How banks are absolved from the principles of action which reg-

ulate the conduct of other individuals and constitute the bond which holds society together, this board has never learned, nor have they the ingenuity to conjecture. But if the Bank of Kentucky had no right to demand of this bank the reception of its own paper in payment, there were other considerations which rendered this course as expedient as it was just. Had the Bank of Kentucky ascertained that she could not pay her debt to this bank with its own paper, she would instantly have refused to receive it. And could she have been blamed? Could that institution or any individual be expected to receive the paper of a bank, which neither paid its notes, nor took them in payment? A refusal on the part of this bank to receive from the Bank of Kentucky, this paper in payment of her debt, would, therefore, have been instantly followed, and justly too, by its rejection at every department of that institution. Its credit might not have been destroyed; but it would have received a blow which would necessarily have deprived the community of a large portion of that relief which has been so extensively realized.

It has been suggested, that this board might have refused to receive payment of this debt, even in their own paper, until the Bank of Kentucky resumed the payment of specie, and that its continued existence would have operated as a check upon that institution. Such was not the opinion of this board. It was not possible to conceal from that bank the amount of this debt; and although she would generally refuse to receive or give credit to the paper of this bank, she would, on executions and in payment of doubtful debts, accumulate a sufficient amount to offer as a set off, whenever payment should be demanded. When the cashier should present the Bank of Kentucky with her notes, and demand payment, could he refuse to receive the notes of this bank? If he did, could this board enforce payment in specie, even by law? Would not their own notes form an adequate set off in courts of justice, as well as in courts of honor and morality? The result of the course of policy which has been suggested, would have been, that this board after suffering all the evils which could arise from the discredit of their notes in the Bank of Kentucky, would at last, have been forced to an exchange of paper. The consequences of refusing to exchange paper with that bank, would, therefore, have been unmingled evil.

There is but one way in which this result could by any possibility, have been avoided. This board might have re-

fused to receive their own paper from the Bank of Kentucky in payment of the debt due them from that bank; they might have held the notes of that institution until she commenced the payment of specie; they might then have put them into the hands of individuals, to be cashed for their use; they might have drawn the specie from that bank and placed it in their own vaults—thus indirectly exacting payment from those to whom they were indebted. They might have done all this; they might have locked up the precious metals and refused to pay one dollar to the bank from which they had exacted the utmost cent; they might have exulted in the success of their scheme and set their creditor at defiance. But this board found insurmountable obstacles to this course, in their own feelings, and in the character of the general assembly. Humble indeed must be their pretensions to honor and fairness, when their feelings will tolerate a policy so unjust—low indeed will be the character of the general assembly, when it requires trick and cunning to support the credit of an institution which is the creature of its power and the object of its protection. A frank, manly and direct course, was the only one which this board could pursue—the only one which was worthy of being communicated to the representatives of the people.

With the Bank of Ky. exchanges of paper have been made to the amount of about 40,000 dollars, and there is about \$4,000 dollars of the notes of that bank, still in the possession of this institution. The object of the directory has been completely effected. The Bank of Kentucky has continued to receive the paper of this bank, equality has been preserved in the credit of the two institutions, and the paper of both has maintained its currency until the legislative arm is again stretched forth to strengthen and perfect a system of revenue and relief, which may continue, as it has already been, the source of innumerable blessings. That the board by this policy, united with their system of calls, have succeeded to the extent of their most sanguine expectations, in distributing the desired relief to a distressed community and in preserving the credit of the paper which has been so extensively emitted, is with them a subject of gratulation, and they doubt not will be highly gratifying to the representatives of the people. The future credit and usefulness of the institution over which they have been called to preside, must essentially depend on measures which it is not their province to suggest.

The Princeton Branch Bank is the only one, the annual report of which, has not been received. It has doubtless

been delayed by some accident, and will be communicated to the legislature as soon as it arrives. The situation of this bank and all its other branches, will be ascertained by a reference to the tables and reports, that are herewith transmitted.

Much dissatisfaction having been expressed, at the delays which occurred in emitting the paper of this bank, and it being impossible in this report, to enter into a minute detail of the preliminary proceedings of the board, and the various obstacles, which prevented the earlier distribution of their notes, the president and directors earnestly solicit the appointment of a joint committee of both houses of the general assembly, with full power to investigate the causes of the supposed delinquencies, and examine into the general management of the institution. The more minutely and strictly such a scrutiny shall be made, the more satisfactory will it be to them; for by such means only, can an adequate knowledge be obtained, of the thousand little difficulties and countless labors incident to the task in which they have been engaged, and which in the easiness of general computation, are entirely overlooked.

Your Obedt Serv't,

JOHN J. CRITTENDEN, PRES'T,
of the Bank of the Commonwealth of Kentucky.

GENERAL SUMMARY.

BRANCH.	Amount of expenses		Amount of discounts		Amount of deposits.		Am't of notes discounted		m't notes issued
	D.	C.	D.	C.	D.	C.	D.	C.	
Lexington,	355	24	6 054	09	90 880	57	211,990	66	196,442
Harrodsburg,	1 261	12	6 902	43	15 073	27	237,085	16	236 410
Hartford,	532	65	2 698	13	5 516	33	88,164	00	88 186
Princeton,	338	03	4 801	13	7,387	69	197,473	59	202,326
Bowlinggreen,	371	56	4 192	69	16,171	12	177 030	00	178,036
Mountsterling,	668	50	2 188	00	5,661	72	84 107	32	85 112
Flemingsburg,	394	12	3 481	28	11 962	31	141 082	00	143 910
Falmouth,	853	24	3 378	03	3 270	08	130 928	93	133 920
Louisville,	1,349	92	8,115	92	80,275	61	276,232	00	280 338
Greensburg,	187	39	4 890	78	9 402	89	176 072	30	173,394
Somerset,	439	25	2 909	39	2 889	73	117,353	62	119,354
Winchester,	710	36	6,620	55	6 441	70	244 754	50	244 716
Principal Bank,	4 571	65	8,845	74	95,880	21	298,128	14	275,072
	12,033	00	65,078	16	350 813	28	3,380,412	22	3 357,216

Amount of paper forwarded to the branches since the 30th September
last, and not included in the above statement \$ 81,088 00

E. E.

JOHN T. PENDLETON, Clerk.

Ordered, That 200 copies of the said report be immediately printed by the public printers, for the use of the senate.

And then the senate adjourned.

MONDAY, OCTOBER 22, 1821.

The senate assembled.

A message from the house of representatives, by Mr. Yantis:

Mr. Speaker—The house of representatives have agreed to the resolutions adopted by the senate, for appointing joint committees to examine the public offices, with amendments, in which they request the concurrence of the senate.

And then he withdrew.

The amendments were then considered.

Resolved, That the senate disagree thereto, and that Mr. Ewing inform the house of representatives thereof.

Mr. M'Affee presented a memorial from the trustees of the Centre College, representing that a building, well calculated to answer the purposes of the institution, was erected; that the college was in such operation as promised to be greatly useful, and soliciting the patronage of the legislature for some endowment.

Which being received was read and referred to Messrs. M'Affee, Jones, Bowmar and Marshall, who may report by bill or otherwise.

A message from the house of representatives, by Mr. Wickliff.

Mr. Speaker—The house of representatives have passed a bill entitled "an act to repeal in part an act entitled an act more effectually to suppress the practice of duelling;" in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Cosby:

Mr. Speaker—The house of representatives have passed a bill entitled "an act authorizing the citizens of Springfield to elect trustees for said town;" in which they request the concurrence of the senate.

And then he withdrew.

The bills were severally read the first time; and the rule being dispensed with, were read, the former a second, and the latter a second and third time. The former was com.

mitted to a committee of the whole house on the state of the commonwealth.

Resolved, That the latter bill do pass, and that the clerk inform the house of representatives thereof.

The following bills were presented from the several committees appointed to prepare and bring in the same, viz.

By Mr. Jones—1. A bill to amend the laws in relation to executions.

By Mr. White—2. A bill concerning conveyances of land.

By Mr. Given—3. A bill for the benefit of Margaret Watson.

By Mr. Lackey—4. A bill to amend the act reserving certain property from execution.

Which were received and read the first time; and the rule being dispensed with, the first bill was read a second time and committed to Messrs. Marshall, White and Pope. The others were ordered to be read a second time.

Mr. Given, from the committee to whom was referred the engrossed bill for the benefit of John M'Kinney, late deputy sheriff of Jessamine county, reported the same with an amendment, which was twice read and agreed to.

Ordered, That the bill, with the amendment, be engrossed and read again. Which being done.

Resolved, That the said bill pass, and that the title be "an act for the benefit of certain sheriffs."

Leave was given to bring in the following bills, viz.

On the motion of Mr. Bowmar—A bill to regulate proceedings under executions, decrees in chancery and orders of sale.

On the motion of Mr. Beauchamp—A bill to amend and repeal in part an act entitled "an act to amend and extend the charter of the Bank of Kentucky," approved December 26, 1820.

Messrs. Bowmar, White and Marshall were appointed a committee to prepare and bring in the former; and Messrs. Beauchamp, M'Affee and Marshall, the latter.

Mr. Crutcher read and laid on the table the following resolutions, viz.

Whereas by the late regulations of the post offices in this state, great inconvenience is experienced by its citizens; many of them are denied the privilege of the post-office, by requiring of them round specie in payment for postage; and as the proceeds arising from the postage of letters received in this state, are paid to carriers of the mail, residents within the state, it is thought right and equitable to

regulate the contracts for carrying the mail, that the same may be paid in the currency of the state, thereby to enable the citizens of this commonwealth to avail themselves of the privilege of conveying their letters by mail:

Resolved by the Senate and House of Representatives of the State of Kentucky, That our senators in congress be instructed, and representatives be requested to have the regulation made with the post office department, if practicable, that the currency of the country shall be received for the postage of letters in this commonwealth.

Resolved, That the governor transmit copies of this resolution to our senators and representatives in congress.

On the motion of Mr. Marshall,

Ordered, That Messrs. Pope and White be appointed with the committee on the branch of the governor's message relative to the revision of the statute laws.

Bills from the house of representatives, of the following titles, viz. 1. An act declaring part of Floyd's Fork navigable; 2. an act to amend an act entitled "an act to establish a turnpike by the way of Williamsburg and Whitley county;" 3. an act to authorize the editors of certain newspapers to insert in their papers certain advertisements: 4. an act for the benefit of Paul Durrett; 5. an act giving the judge of the thirteenth judicial district further time to move into and reside in the same; were severally read, the first a third time.

Resolved, That the said bill pass, and that Mr. Crutcher inform the house of representatives thereof.

The rule was dispensed with, and the other bills were severally read the second time, and the second committed to Messrs. Montjoy, Dollerhide and Ballinger.

The rule was again dispensed with, and the third, fourth and fifth were severally read the third time.

Resolved, That the said bills do pass, and that the clerk inform the house of representatives thereof.

The following bills were read the second time, viz. 1. A bill to amend the law limiting the time of bringing suits; 2. a bill to increase the number of judicial districts and to regulate the terms of the several circuit courts; 3. a bill to restrain the sending away of slaves and servants to other states for merchandize.

The former was committed to Messrs. Pope, Marshall and Owens. The two latter were committed to a committee of the whole house on the state of the commonwealth.

An engrossed bill for the benefit of John White, was read the third time.

Resolved, That the said bill pass, and that the title be "an act for the benefit of John White."

Ordered, That the clerk carry the said bill to the house of representatives and request their concurrence.

On the motion of Mr. White, the engrossed bill for the benefit of the wife and children of Benjamin Herndon, was taken up and referred to the committee for courts of justice.

And then the senate adjourned.

TUESDAY, OCTOBER 23, 1821.

The senate assembled.

The lieutenant governor appeared and resumed the chair.

A message from the house of representatives, by Mr. M'Millan:

Mr. Speaker—The house of representatives have concurred in the resolution offered by the senate, for appointing a joint committee to examine and report the state of the Bank of Kentucky, with an amendment, in which they request the concurrence of the senate.

And then he withdrew.

The amendment was then twice read and agreed to.

Messrs. Bowmar, Carneal, Crutcher and Pope were appointed a committee on the part of the senate.

Ordered, That Mr. Crutcher inform the house of representatives thereof.

A message from the house of representatives, by Mr. Murray:

Mr. Speaker—The house of representatives have adopted a resolution for appointing joint committees to examine and report the state of the Bank of the Commonwealth and its branches; in which they request the concurrence of the senate.

And then he withdrew.

The resolution was then twice read and referred to messrs. Faulkner, Owens and M'Afee:

Mr. Roper, from the committee for courts of justice, reported the engrossed bill entitled "an act for the benefit of the wife and children of Benjamin Herndon," with amendments, which were severally twice read and agreed to.

Ordered, That the bill be re-engrossed and read again. Which being done,

On the motion of Mr. Carneal, the bill was re-committed to the same committee.

A message from the house of representatives, by Mr. Yancey :

Mr. Speaker—The house of representatives recede from their amendments to the resolution proposed by the senate, for the appointment of joint committees to examine the public offices, and have appointed committees on their part in conformity thereto.

And then he withdrew.

The committees on the part of the senate were then appointed, viz. On the treasurer's office, messrs. Davidson, Faulkner and Slaughter; on the register's office, messrs. Lackey, Anderson, Montjoy and Bowmar; on the auditor's office, messrs. Owens, Ward, J. L. Hickman, Dawson and Throckmorton; on the penitentiary, messrs. Jones, Bowmar, Dollerhide, M'Afee, Marshall and Beauchamp.

Ordered, That the clerk inform the house of representatives thereof.

Mr. Speaker laid before the senate a letter from Samuel M'Lean, Esq. a member of the senate from the county of Nelson, declaring his resignation of his seat in the senate; which was read as follows:

ST. LOUIS, Oct. 4th, 1821.

Dear Sir:

OWING to the ill health of my wife, being now with her on a tour through this state, which I am advised to continue to New Orleans during the winter months, I am compelled to resign my seat in the senate. I do therefore resign my seat as senator from the county of Nelson, in the senate of Kentucky.

Very respectfully, your friend,

SAML. M'LEAN.

Maj. W. T. Barry, Speaker of the Senate.

Ordered, That a writ of election issue immediately, directed to the sheriff of Nelson county, commanding him to cause to be elected a fit person to fill the vacancy occasioned by the said resignation; and that the said election commence on Monday the fifth day of November next.

Mr. Barbee, from the joint committee of enrolments, reported that the committee had examined an enrolled bill entitled "an act declaring a part of Floyd's Fork navigable," and found the same truly enrolled.

A message from the house of representatives, by Mr. Yantis :

Mr. Speaker—The Speaker of the house of representatives having signed an enrolled bill, I am directed to lay the same before the senate, for the signature of their Speaker.

And then he withdrew.

Mr. Speaker signed the said bill, being the same reported by Mr. Barbee to-day ; and it was delivered to the joint committee, to be presented to the governor for his approbation.

Mr. Barbee, from the said committee, reported that this duty was performed.

The Speaker laid before the senate a letter from the President of the Bank of Kentucky, containing a report of the state of the institution, with two accompanying tables, which were read as follows, to wit :

BANK OF KENTUCKY, OCTOBER, 1821.

Dear Sir :

THE President and Directors of the Bank of Kentucky, in the discharge of the duty assigned to them by the 15th section of the act to amend and extend the charter of the Bank of Kentucky, approved 26th December 1820, have caused a valuation of the worth of the institution to be made out, agreeably to the classification prescribed by that section, which is herewith most respectfully submitted, through you, to the honorable body over which you preside.

It may not perhaps be unsatisfactory, to accompany that valuation by a brief detail of the mode adopted by this board to render it, as far as practicable, equitable and impartial to all the parties interested.

The cashier of the principal office was instructed, during the summer, to visit all the departments, inspect their condition, convene the respective boards of directors, state the object in view, and enjoin them to scan the lists of debtors, designating such as from the best information were either bad or doubtful, taking care at the same time to keep those heads distinct and separate.

Where estate, either real or personal, appertained to the bank, or was held as a security for moneys loaned, the departmental directories were advised to nominate two or more intelligent and respectable persons, unconnected with the direction, to value the said estate, and to report in writing the result of that valuation. These instructions were strictly conformed to, and the cashier, upon his return, presented

the lists of debtors, marked and discriminated in the manner prescribed, together with the certificates of valuation made in conformity to the mode pointed out.

The cashiers of the departments were also required to report the condition of their offices on the first instant, together with the correspondence between the books and the evidences in possession.

The same course has been pursued here.

From these sources the valuation which is now submitted has been framed. The amounts which are reported as bad and as doubtful, are as relates to the *debts* due the institution upon the principal of those debts, exclusive of the interest accrued thereon, which could not be so well taken in to this estimate. The same is to be remarked as to the amount of debt represented by the tables as constituting a means of the bank. No interest which has been unpaid, with the exception of some discounts, is included in that amount, or contributes to swell it out.

It is deemed advisable to subjoin to this communication a general statement of the condition of the institution. Such statement is almost indispensable to the full comprehension and understanding of the table of valuation, and will exhibit at once, in a condensed shape, the liabilities and the resources of the bank.

The table marked A, contains the estimate of the worth of the institution. That marked B, exhibits the general condition of its affairs.

The state holds an interest in the capital stock of \$596,700; the residue is held principally by individuals. Although there were under issue on the first inst. at the respective offices, notes of the Bank of Kentucky to the aggregate amount of \$1,290,888 06, yet there was on hand, on the same day, of those notes, the sum of \$371,171, collected at offices other than those whence they were issued; so that in fact there was only actually in circulation, of the paper of this institution, and for which it is responsible, the sum of \$919,717 06.

Of the deposits, the sum of \$109,959 consists of balances due from the offices respectively, each to the other.; \$8,143 51 in specie or specie funds, and \$64,875 86 in notes of the Bank of the Commonwealth of Kentucky. The sum of \$9,259 88 is applicable to claims existing against the depositors and cannot be withdrawn. The balance remaining of said deposits, after these several items are deducted therefrom, is the amount for which, in addition to

the notes actually afloat, the institution must provide the means of payment and redemption.

There is, of the amount reported under the head of cash, the sum of \$270,502 10 in specie, and the sum of \$133,081 33 cents in the notes of the Bank of the Commonwealth of Kentucky. A part of these sums, as before stated, consists of special deposits. A respectable proportion of such parts of the exhibit of cash, as have not been designated by these elucidations, consists of funds equivalent to specie.

Of the resources classified under the head of Due to the Bank, 3,838,771 dollars 43 cents consists of negotiable notes and bills of exchange; 3,212 dollars 50 cents, of sums due on various accounts; 43,193 dollars 10 cents, of balances against banks; and the residue, of credits against the offices of the institution.

The real estate appertaining to the bank, the current expenses, the reserved and the running profits, are all reported in the tables under appropriate heads.

It may not be amiss to state, that many minor claims against the institution, such as clerks' and lawyers' fees, have not been presented, and are therefore both unascertained and unincorporated in the head of charges.

592,893 dollars 79 cents of the debt due to the institution is loaned on a pledge of stock; the residue, upon real and personal estate and personal responsibility.

It is but justice, and indispensably due to his feelings, to state, that the deficit of cash reported as having occurred at the Paris branch, existed at the time of the present cashier's introduction into that office—from what cause it has arisen, I am unable to explain.

I am, dear sir, most respectfully, yours,

J. HARVIE, *Pres't.*

The honorable Speaker of the Senate.

(A.)

ESTIMATE OF THE WORTH OF THE BANK OF KENTUCKY
ON THE 1ST OCTOBER 1821.

FRANKFORT.

<i>Subject.</i>	<i>Doubtful.</i>	<i>Bad.</i>
Debts of individuals,	68,349 93	66,617 99
Balances against banks,	96 09	
Counterfeits,		183
Insolvent bank notes,		634
Uncurrent bank notes,	466	
	Dolls. 68,912 02	67,434 99

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WASHINGTON.

<i>Subject.</i>	<i>Doubtful.</i>	<i>Bad.</i>
Debts of individuals,	10,000	5,000
Counterfeits,		231
	Dolls. 10,000	5,231

PARIS.

Counterfeits,		222 10
Uncurrent bank notes,	115	
Deficiency of cash,		131 14
	Dolls. 115	353 24

WINCHESTER.

Debts of individuals,	9,414 98	4,000
Counterfeits,		42 50
	Dolls. 9,414 98	4,042 50

LEXINGTON.

Debts of individuals,	12,503 27	32,599 18
Counterfeits,		206
Uncurrent bank notes,	461	
	Dolls. 12,764 27	32,805 18

SHELBYVILLE.

Debts of individuals,	12,681 51	
Counterfeits,		75 50
Insolvent bank notes,		2 25
Uncurrent bank notes,	188	
	Dolls. 12,869 51	77 75

LOUISVILLE.

Debts of individuals,	4,350	
Insolvent bank notes,		125
	Dolls. 4,350	125

DANVILLE.

Debts of Individuals,	2,155	
Insolvent bank notes,		23
	Dolls. 2,155	23

GLASGOW.

<i>Subject.</i>	<i>Doubtful.</i>	<i>Bad.</i>
Debts of individuals,	8,994	
Counterfeits,		20
Uncurrent bank notes	837	
	Dolls. 9,831	20

SPRINGFIELD.

Counterfeits,		10
Insolvent bank notes,		90
Uncurrent bank notes,	550	
	Dolls. 550	100

RUSSELLVILLE.

Debts of individuals,	7,383	298 57
Uncurrent bank notes,	954 50	
Insolvent bank notes,		44
	Dolls. 8,337 50	342 57

HOPKINSVILLE.

Debts of individuals,	9,440	
Counterfeits,		8
Insolvent bank notes,		384
Uncurrent bank notes,	699	
	Dolls. 10,139	392

BARDSTOWN.

Debts of individuals,	3,186 37	2,634 27
Uncurrent bank notes,	798	
Insolvent bank notes,		30
	Dolls. 3,984 37	2,664 27

RICHMOND.

*Schedule of the Real Estate owned by the Bank of Kentucky,
on the first day of October 1821.*

FRANKFORT.

<i>Description of Property.</i>	<i>Cost.</i>	<i>Valuation.</i>	<i>Loss.</i>
Banking house,	10,000	7,000	3,000

WASHINGTON.

Banking house,	9,023 01	4,000	5,023 01
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PARIS.

<i>Description of Property.</i>	<i>Cost.</i>	<i>Valuation.</i>	<i>Loss.</i>
Banking house,	7,473 09	4,500	2,973 09

WINCHESTER.

Banking house,	5,547 78	3,500	2,047 78
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LEXINGTON.

Banking house,	15,727 99	6,000	9,727 99
House on Main st. (bought in),	800	800	

SHELBYVILLE.

Banking house,	4,454 05	2,800	1,654 05
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BARDSTOWN.

Brick row of S. T. Beall,	15,510	15,510	
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LOUISVILLE.

Banking house,	8,753 90	8,000	753 90
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RUSSELLVILLE.

Banking house, (a donation)		3,000	
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Dolls. 77,289 82 55,110 25,179 82

RECAPITULATION.

<i>Office.</i>	<i>Doubtful.</i>	<i>Bad.</i>	<i>Good.</i>
Frankfort,	68,912 02	67,434 99	992,235 39
Washington,	10,000	5,231	338,275 91
Paris,	115	353 24	251,028 56
Winchester,	9,414 98	4,042 50	202,689 20
Lexington,	12,764 27	32,805 18	402,481 94
Shelbyville,	12,869 51	77 75	171,437 12
Louisville,	4,350	125	502,407 92
Danville,	2,155	23	242,017 72
Glasgow,	9,831	20	216,668 80
Springfield,	550	100	190,739 60
Russellville,	8,337 50	342 57	359,737 16
Hopkinsville,	10,139	392	290,738 23
Richmond,			218,084 90
Bardstown,	3,984 37	2,664 27	199,460 38
	153,422 65	113,611 50	4,578,022 83
Real estate,		25,179 82	55,110
Dolls.	153,422 65	138,791 32	4,633,132 83

SUMMARY.

Doubtful,	153,422 65
Bad,	138,791 32
Good,	4,633,132 83
Dolls.	4,925,346 80

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(B.)

A statement of the condition of the Offices of the Bank of Kentucky, on the 1st of October 1821.

FRANKFORT.

Cash,	47,487	26	Stock,	642,220	
Due from individ's.	961,336	95	Notes in circulation,	339,349	31
Due from banks,	119,758	21	Due to banks,	55,083	63
Charges,	2,051	74	Individual deposits,	45,181	56
Real estate,	10,000		Discounts & prem's.	7,855	79
			Reserved profits,	50,943	85
\$ 1,140,634			\$ 1,140,634		

WASHINGTON.

Cash,	61,127	56	Stock,	250,000	
Due from individ's.	288,552	37	Notes in circulation,	58,523	75
Due from banks,	3,826	98	Due to banks,	5,764	06
Charges & premiums,	1,039	10	Individual deposits,	44,163	70
Real estate,	9,023	01	Discounts & prem's.	5,117	51
\$ 363,569			\$ 363,569		

PARIS.

Cash,	54,218	59	Stock,	160,000	
Due fr. individuals,	191,818	88	Notes in circulation,	47,714	
Due from banks,	5,459	33	Due to banks,	526	47
Charges,	969	08	Discounts & prem's.	3,405	87
Real estate,	7,473	09	Individual deposits,	48,423	77
Deficit in cash acc't.	131	14			
\$ 260,070			\$ 260,070		

WINCHESTER.

Cash,	48,107	29	Stock,	120,000	
Due fr. individuals,	167,782	83	Notes in circulation,	41,165	50
Due from banks,	256	56	Due to banks,	13,339	46
Real estate,	5,547	78	Individual deposits,	45,066	19
Charges,	595	57	Discounts & prem's.	2,668	88
\$ 222,290			\$ 222,290		

LEXINGTON.

Cash,	155,738	07	Stock,	272,800	
Due fr. individuals.	283,250	54	Notes in circulation,	30,286	
Due from banks,	9,062	78	Due to banks,	23,101	39
Charges,	1,524	80	Individual deposits,	121,918	08
Real estate,	16,527	99	Discounts & prem's.	3,663	76
			Reserved profits,	14,434	95
\$ 466,204			\$ 466,204		

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SHELBYVILLE.

Cash,	16,135 92	Stock,	110,000
Due fr. individuals,	162,020 42	Notes in circulation,	48,437
Due from Banks,	6,228 04	Due to banks,	13,524 72
Charges,	978.29	Individual deposites,	15,117 72
Real estate,	4,454 05	Discounts & prem's.	2,687 28
	\$189,816 72		\$189,816 72

LOUISVILLE.

Cash,	115,235 77	Stock,	325,000
Due fr. individuals,	381,352 06	Notes in circulation,	41,595 75
Due from banks,	10,245 09	Due to banks,	7,231 37
Charges,	957 87	Individual deposites,	137,154 03
Real estate,	8,753 90	Discounts & prem's.	5,563 54
	\$516,594 69		\$516,594 69

DANVILLE.

Cash,	45,973 62	Stock,	150,000
Due fr. individuals,	189,727 48	Notes in circulation,	84,702 50
Due from banks,	8,494 62	Due to banks,	35 93
Charges,	971 39	Individual deposites,	7,483 48
		Discounts & prem's.	2,945 20
	\$245,167 11		\$245,167 11

GLASGOW.

Cash,	29,392 85	Stock,	100,000
Due fr. individuals,	197,126 95	Notes in circulation,	106,715
Charges,	942 75	Due to Banks,	12 588 55
		Individual deposites,	5,162 41
		Discounts & prem's.	2,996 59
	\$227,462 55		\$227,462 55

SPRINGFIELD.

Cash,	24,155 55	Stock,	100,000
Due fr. individuals,	166,605	Notes in circulation,	79,802
Due from banks,	629 05	Due to banks,	582 37
Charges,	964 59	Individual deposites,	8,359 94
		Discounts & prem's.	3,109 88
	\$192,354 19		\$192,354 19

RUSSELLVILLE.

Cash,	80,539 72	Stock,	140,000
Due fr. individuals,	286,676 33	Notes in circulation,	149,376 25
Due from banks,	1,201 13	Due to banks,	14,847 05
Charges,	540 07	Individual deposites,	59,731 88
Real estate,	3,000	Discounts & prem's.	4,952 12
		Donation B. house,	3,000
	\$371,957 30		\$371,957 30

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HOPKINSVILLE.

Cash,	64,392 39	Stock,	120,000
Due fr. individuals,	235,725 25	Notes in circulation,	133,534
Due from banks,	1,171 59	Due to banks,	8,092 61
Charges,	1,121 03	Individual deposites,	36,731 61
		Discounts & prem's.	4,052 04
	<u>\$302,410 26</u>		<u>\$302,410 26</u>

RICHMOND.

Cash,	43,733 73	Stock,	120,000
Due fr. individuals,	174,303	Notes in circulation,	52,410
Due from banks,	48 17	Due to banks,	9,677 18
Charges,	735 75	Individual deposites,	33,488 83
		Discounts & prem's.	3,244 64
	<u>\$218,820 65</u>		<u>\$218,820 65</u>

BARDSTOWN.

Cash,	39,062 21	Stock,	113,900
Due fr. individuals,	155,705 97	Notes in circulation,	77,227
Due from banks,	11,340 84	Due to banks,	1,149 23
Charges,	1,062 50	Individual deposites,	25,486 25
Real estate,	15,510	Reserved profits,	1,220 50
		Discounts & prem's.	698 54
	<u>\$222,681 52</u>		<u>\$222,681 52</u>

SUMMARY.

OFFICE.	STOCK	Notes in cir- culation.		Depositcs.		Cash on hand.		Due to the Bank.	
		D	C.	D	C.	D	C.	D.	C.
Frankfort,	Dollars. 642,220	339,349	31	100,265	19	47,487	26	1,081,095	14
Washington,	250,000	58,523	75	49,927	76	61,127	56	292,379	35
Paris,	160,000	47,714		48,950	24	54,218	59	197,278	21
Winchester,	120,000	41,165	50	53,455	65	48,107	20	168,039	39
Lexington,	272,800	30,285		145,019	47	155,738	07	292,313	32
Shelbyville,	110,000	48,487		28,642	44	16,135	92	168,248	46
Louisville,	325,000	41,505	75	144,435	40	115,285	7	391,597	15
Bardstown,	113,900	77,227		26,635	48	39,062	21	167,046	81
Springfi ld,	100,000	79,802		9,442	31	24,155	55	167,234	05
Danville,	150,000	84,702	50	7,519	41	45,973	62	198,222	10
Richmond,	120,000	52,410		43,166	01	43,733	73	174,351	17
Glasgow,	100,000	106,715		17,750	96	29,392	85	197,126	95
Russellville,	140,000	149,376	25	74,628	93	80,539	7	287,877	51
Hopkinsville	120,000	133,524		44,824	22	64,392	39	236,896	84
	<u>2,723,920</u>	<u>1,290,888</u>	<u>06</u>	<u>799,663</u>	<u>47</u>	<u>825,350</u>	<u>5</u>	<u>4,019,706</u>	<u>45</u>

Stock,	2,723,920	Cash on hand,	825,350 53
Notes in circula.	1,290,888 06	Due to the bank,	4,019,706 45
Deposites,	799,663 47	Real estate,	80,289 82
	4,814,471 53		4,925,346 80
Reserved profits,	69,599 30	Charges,	14,554 53
Running profits,	55,961 64	Deficit of cash,	131 14
	\$4,940,032 47		\$4,940,032 47

Mr. Montjoy, from the committee to whom was referred the bill from the house of representatives, entitled "an act to amend an act entitled an act to establish a turnpike by the way of Williamsburg, Whitley county," reported the same with an amendment, which being twice read was agreed to.

On the motion of Mr. Carneal, the said bill and amendment was re-committed to messrs. Carneal, Montjoy and White.

Mr. Beauchamp, from the committee appointed, presented a bill for the benefit of debtors and creditors, which was received and read the first time, and ordered to be read a second time.

Ordered, That 200 copies of the said bill be forthwith printed by the public printers, for the use of the legislature.

The following bills were severally read the second time, viz. 1. A bill to remove the seat of justice of Owen county; 2. a bill concerning the conveyance of lands; 3. a bill for the benefit of Margaret Watson; and 4. a bill to amend the act exempting certain property from execution.

The first and third were ordered to be engrossed and read a third time to morrow. The second, with an amendment proposed by Mr. Bowmar, was committed to a committee of the whole house on the state of the commonwealth; and the fourth was committed to messrs. Lackey, M'Afee and Jones.

A message from the house of representatives, by Mr. Cowan:

Mr. Speaker—The house of representatives have passed a bill entitled "an act to allow an additional number of justices of the peace to certain counties;" in which they request the concurrence of the senate.

And then he withdrew.

The bill was read the first time, and the rule being dispensed with, it was read a second time and committed to messrs. Crutcher, Ewing and Lackey.

The order of the day for considering the resolutions relative to imprisonment for debt, was then postponed.

And then the senate adjourned.

WEDNESDAY, OCTOBER 24, 1821.

The senate assembled.

Mr. Carneal, from the committee to whom was referred the engrossed bill entitled "an act for the benefit of the wife and children of Benjamin Herndon," reported the same with an amendment, which was twice read and agreed to.

Ordered, That the said bill with the amendment, be re-engrossed and read again.

A message from the house of representatives, by Mr. Murray :

Mr. Speaker—The house of representatives have passed bills of the following titles, viz. An act to alter the mode of admitting persons to bail under writs of *habeas corpus* ; an act for the benefit of the widow and heirs of Isaac Howdyshelt, deceased ; an act further to regulate the payment of the debt due the commonwealth for the sale of vacant land ; in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Allen :

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled "an act giving further time to the county court of Henry county to make out and return their list of taxable property for the year 1821."

And then he withdrew.

Mr. Ballinger, from the joint committee of enrolments, reported that the committee had examined the following enrolled bills, viz. An act for the benefit of Paul Durrett, of Montgomery county ; an act authorizing the editors of certain newspapers to insert in their papers certain advertisements ; an act to authorize the citizens of Springfield to elect trustees for said town.

A message from the house of representatives, by Mr. Yantis :

Mr. Speaker—The Speaker of the house of representatives having signed sundry enrolled bills, I am directed to lay the same before the senate for the signature of their Speaker.

And then he withdrew.

Mr. Flournoy, from the committee to whom was referred the bill to amend the militia law, reported the same with amendments, which were severally twice read, amended at the clerk's table and ordered to be engrossed and read a third time to-morrow.

Mr. Owens, from the committee appointed, reported a bill to amend the several acts concerning assignment and relinquishment of dower; which was received and read the first time, and ordered to be read a second time to-morrow.

Mr. Pope, from the committee to whom was referred a bill to amend the law limiting the time of bringing suits, reported the same with an amendment, which was twice read.

On motion,

Ordered, That the said bill and amendment be re-committed to the committee for courts of justice.

The senate received a message in writing from the governor, by Mr. Anderson, containing nominations, as follows, viz.

Gentlemen of the Senate,

I nominate for your advice and consent, Solomon P. Sharp, attorney-general in and for the commonwealth of Kentucky, in the place of Benjamin Hardin, refused to accept.

William Hardin, keeper of the penitentiary in and for the commonwealth of Kentucky, in the place of William Starling, jun. resigned.

JOHN ADAIR.

October 24, 1821.

Mr. Faulkner, from the committee to whom was referred the resolution from the house of representatives, appointing a joint committee to examine the reports of the Bank of the Commonwealth and its branches, reported the same with amendments, which were twice severally read and committed to messrs. White, M'Affee and Marshall; who, after a short time, reported the same with an amendment, which being twice read, was, on the motion of Mr. Flournoy, ordered to be laid on the table.

Mr. Crutcher, from the committee to whom was referred the bill from the house of representatives, entitled "an act to allow an additional number of justices of the peace in certain counties," reported the same with amendments, which being twice read were amended at the clerk's table and agreed to. The bill was then read the third time with the amendments.

Resolved, That the said bill, as amended, pass ; and that the clerk inform the house of representatives thereof, and request their concurrence in the said amendments.

Leave was given to Mr. Flournoy, to report a bill to provide for the care and safe-keeping of the stationary and furniture belonging to the senate chamber ; which was received and read the first time, and the rule being dispensed with, it was read a second time and committed to messrs. Ewing, Marshall and Jones.

On the motion of Mr. Pope, leave was given to bring in a bill to prevent any further subscriptions on the part of the state for bank stock ; and messrs. Pope, Bowmar and Ballinger were appointed a committee to prepare and bring in the same.

On the motion of Mr. Ewing,

Ordered, That the committee of propositions and grievances be discharged from any further consideration on the petition of Charles Brandon ; and that the said petition be committed to the committee of the whole house on the state of the commonwealth.

The senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth. Mr. Crutcher in the chair ; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Crutcher reported, that the committee had according to order taken under consideration resolutions in relation to imprisonment for debt, and had gone through the same with an amendment, which he delivered in at the clerk's table, when the same was twice read and agreed to, as follows, viz.

Resolved, That a law ought to pass, providing that the execution against the body of a debtor ought not to issue upon any judgment or decree of court, unless upon affidavit of the plaintiff or plaintiffs, charging that the defendant or defendants have fraudulently conveyed away or concealed their estate, so that it cannot be reached by an execution against the estate : Providing also, that upon such affidavit made, the writ of *ca. sa.* shall issue ; and upon its service, the defendant or defendants may enter into a recognizance, with good security, to appear on a named day before a court of competent jurisdiction, for the purpose of enquiring into the question of fraud : Providing also, that in case of fraud being established, the writ of *ca. sa.* should issue, under the rules and regulations now provided by law : Providing also, that if upon such enquiry, the defendant or defendants

should be found innocent of the charge of fraud, that the prosecution shall be dismissed with costs.

The said resolutions were then adopted as amended, and messrs. Marshall, Owens, M'Affee, White and Flournoy were appointed a committee to prepare and bring in a bill pursuant thereto.

Mr. Ewing, from the committee to whom was referred a bill to provide for the care and safe-keeping of the stationary and furniture belonging to the senate chamber, reported the same with amendments.

And then the senate adjourned.

THURSDAY, OCTOBER 25, 1821.

The senate assembled.

Mr. Speaker signed the enrolled bills reported by Mr. Yancey on yesterday, and they were delivered to the joint committee, to be presented to the governor for his approbation.

Mr. Carneal, from the committee to whom was referred the bill from the house of representatives, entitled "an act to amend an act entitled an act to establish a turnpike by the way of Williamsburg, Whitley county," reported the same without amendment.

A motion was made by Mr. Carneal, to reconsider a vote formerly taken, adopting an amendment offered by a committee who acted on the bill.

Resolved, That the senate reconsider the said vote.

Mr. Montjoy, from the said committee, asked leave to withdraw the said amendment; which being granted, the bill was read a third time.

Resolved, That the said bill pass, and that the clerk inform the house of representatives thereof.

The following bills were presented from the several committees appointed to prepare and bring in the same. viz.

1. By Mr. M'Affee—A bill to endow the Transylvania University and Centre College of Kentucky.

2. And a bill to regulate trials of the right of property in the country.

3. By Mr. Pope—A bill to prevent any further subscriptions on the part of the state for bank stock.

Which being received were severally read the first time and ordered to be read a second time.

Mr. Marshall, from the committee to whom was referred a bill to amend the laws in relation to executions, reported

the same with an amendment, which being twice read was agreed to.

The bill was then further amended at the clerk's table, and referred to the committee on the resolutions in relation to the subject of imprisonment for debt.

The nominations made by the governor, yesterday, were taken up.

That of Solomon P. Sharp, as attorney general, was laid on the table for the present.

Resolved, That the senate advise and consent to the appointment of William Hardin as keeper of the penitentiary; and that messrs. Crutcher and Anderson inform the governor thereof.

Mr. Flournoy presented a petition counter to that for removing the seat of justice of Owen county; which being received and read, was referred, together with the engrossed bill upon the subject, to the committee of propositions and grievances.

Leave was given to bring in the following bills, viz.

On the motion of Mr. Pope—A bill for the relief and benefit of Mary M'Casland, formerly the wife and widow of Abel Shannonhouse, deceased.

On the motion of Mr. Dawson—A bill to exempt certain persons from working on streets and public highways.

Messrs. Pope, Flournoy and Given were appointed a committee to prepare and bring in the former; and messrs. Dawson, Bowmar and Pope, the latter.

On the motion of Mr. White,

Resolved, That the sergeant-at arms of the senate be, and he is hereby directed to call on the secretary of state for a complete set of the Reports of the Decisions of the Court of Appeals, for the use of the senate.

On the motion of Mr. Flournoy,

Resolved, That the future hour of adjournment in the senate, for the residue of the present session, shall be nine o'clock in the morning.

The amendments reported on yesterday by Mr. Ewing, from the committee to whom was referred the bill to provide for the care and safe-keeping of the stationary and furniture belonging to the legislature, were taken up, twice severally read and concurred in.

Ordered, That the bill, with the amendments, be engrossed and read a third time to-morrow.

The resolutions offered by Mr. Crutcher on the 22d inst. were taken up and twice severally read; and the question

being taken on concurring therein, it was resolved in the affirmative—Yeas 23, nays 8.

The yeas and nays being required by messrs. Crutcher and Beauchamp, were as follows, viz.

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Barbee, Bowman, Bowmar, Carneal, Crutcher, Dawson, Dollerhide, Ewing, Faulkner, Ford, Gorin, J. L. Hickman, Lackey, M'Afee, Montjoy, Owens, Perrin, Pope, Slaughter, D. White, jr. and Worthington.

Those who voted in the negative, are, messrs. Beauchamp, Davidson, Flournoy, Given, R. Hickman, Jones, Pickett and Smith.

Resolved. That the said resolutions be adopted, and that the clerk inform the house of representatives thereof and request their concurrence.

An engrossed bill entitled "an act for the benefit of the wife and children of Benjamin Herndon;" and an engrossed bill entitled "an act for the benefit of Margaret Watson," were severally read the third time.

Resolved. That the said bills pass, and that the titles be, respectively, "an act for the benefit of the wife and children of Benjamin Herndon," and "an act for the benefit of Margaret Watson."

Ordered. That the clerk carry the said bills to the house of representatives and request their concurrence.

And then the senate adjourned.

FRIDAY, OCTOBER 26, 1821.

The senate assembled.

Mr. Ewing, from the committee of propositions and grievances, reported the following resolution, viz.

Resolved. That the bill to remove the seat of justice of Owen county, ought to pass, with an amendment, that the ground upon which the public buildings are erected shall be re-conveyed to the person who conveyed the same to the county court, with its appurtenances, the jail excepted.

Which being twice read was ordered to be laid on the table for the present.

Mr. Pope, from the committee appointed, reported a bill for the relief and benefit of Mary M'Casland, formerly the wife and widow of Abel Shaamonhouse, deceased: which was received and read the first time and ordered to be read a second time.

On the motion of Mr. Ewing, leave was given to bring in a bill to amend the act entitled "an act to alter the mode of taking in the lists of taxable property," approved February 2, 1819; and messrs. Ewing, Perrin and Barbee were appointed a committee to prepare and bring in the same.

Bills from the house of representatives, of the following titles, to wit: An act to alter the mode of admitting persons to bail under writs of *habeas corpus*; an act for the benefit of the widow and heirs of Isaac Howdyshelt, dec'd.; an act further to regulate the payment of the debt due the commonwealth for the sale of vacant land; were severally read the first time and ordered to be read a second time.

Engrossed bills of the following titles, to wit: An act to amend the militia law, and an act to provide for the care and safe keeping of the stationary and furniture belonging to the senate, were severally read the third time and the blanks in the former filled up.

On motion,

Ordered, That the said bill be committed to messrs. Dawson, Beauchamp and M'Affee.

Resolved, That the latter bill pass, and that the title be "an act for the safe keeping of the stationary and furniture belonging to the legislature."

Ordered, That the clerk carry the said bill to the house of representatives and request their concurrence.

The following bills were severally read the second time, to wit: 1. A bill for the benefit of debtors and creditors; 2. a bill to amend the several acts concerning assignment and relinquishment of dower; 3. a bill to endow the Transylvania University and Centre College of Kentucky; 4. a bill to prevent any further subscriptions on the part of the state for bank stock; 5. a bill to regulate trials of the right of property in the country.

The first, second and third were committed to a committee of the whole house on the state of the commonwealth.

On motion,

Ordered, That 200 copies of the second bill be printed forthwith by the public printers, for the legislature.

The fourth bill was ordered to be engrossed and read a third time. The fifth was committed to messrs. Bowmar, M'Affee, Owens, Faulkner and Ewing.

A message from the house of representatives, by Mr. Davis:

Mr. Speaker—The house of representatives have adopted the following resolution, to wit:

L

IN THE HOUSE OF REPRESENTATIVES, Oct. 24, 1821.

Resolved by the General Assembly of the Commonwealth of Kentucky, That the secretary of state be directed to furnish, upon the application of the chairman of the board of trustees of the Transylvania University, copies of Littell's edition of the Laws of Kentucky; of Hardin's, Bibb's and Marshall's Reports; and that he furnish copies of the Session Acts and Journals of both houses, from the first session of the legislature down to the present time, if practicable; and that in future, copies of the Session Acts, Decisions of the Court of Appeals hereafter to be published, and Journals, be furnished said institution.

Extract, &c.

R. S. TODD, C. H. R.

In which they request the concurrence of the senate.

And then he withdrew.

The resolution was then twice read and concurred in.

Ordered, That the clerk inform the house of representatives thereof.

On the motion of Mr. Ewing, leave was given to withdraw the resolution reported this morning, upon the subject of removing the seat of justice of Owen county.

Mr. Ewing then, from the said committee of propositions and grievances, reported the engrossed bill for removing the seat of justice of Owen county, with an amendment; which being received was twice read and concurred in.

Ordered, That the said bill be re-engrossed and read a third time to-morrow.

On the motion of Mr. Bowmar, leave was given to bring in a bill to amend the act entitled "an act to amend an act directing certain surveyors to transcribe certain entry books," approved February 12, 1820; and messrs. Bowmar, Jones and Gorin were appointed a committee to prepare and bring in the same.

The nomination of Solomon P. Sharp as attorney general, was again taken up.

On the motion of Mr. Roper,

Ordered, That the said nomination be committed to messrs. Roper, Bowmar, Given, M'Affee and Dawson.

Mr. Davidson, from the committee to whom the engrossed bill entitled "an act to amend the militia law," was referred, reported the same with an amendment, which being received was agreed to.

Ordered, That the said bill, with the amendment, be re-engrossed and read the third time to-morrow.

Mr. Dawson, from the committee appointed, reported a bill to exempt certain persons from working on the highways.

And Mr. Beauchamp, from the committee appointed for that purpose, reported a bill to amend and repeal in part an act entitled "an act to amend and extend the charter of the Bank of Kentucky."

Which were received and severally read the first time, and ordered to be read a second time.

On motion, the rule was dispensed with and the latter bill was read the second time and committed to messrs. Marshall, White and M'Attee.

Mr. Lackey, from the committee to whom was referred the bill to amend the act reserving certain property from execution, reported the same with an amendment, which being received was twice read and agreed to.

Ordered, That the said bill, with the amendment, be re-ingrossed and read the third time.

Mr. Ballinger, from the joint committee of enrolled bills, reported that the committee had laid before the governor, on this day, the bills last signed by the speakers, for his approbation.

The senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Gorin in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Gorin reported, that the committee had taken under consideration a bill to amend the act to prevent frauds and perjuries, and had come to a resolution thereupon, which he handed in at the clerk's table, where the same was read as follows, viz.

Resolved, That the bill to amend the act to prevent frauds and perjuries, ought not to pass.

The bill follows in these words:

A bill to amend an act to prevent frauds and perjuries.

WHEREAS the validity of verbal contracts is deemed inconvenient, inasmuch as they open a wide door for perjury and injustice, and thereby many disputes arise, and their trials rendered tedious by the examination of witnesses, whereby much time and money of the citizens, as well as the time of judges and court officers, are unnecessarily consumed; and whereas the act concerning frauds and perjuries, now in force, renders all verbal contracts for land, and for personal contracts not to be performed in one year, void, is

found salutary, and as those contracts cannot be distinguished in principle from other verbal contracts :

§ 1. *Be it therefore enacted by the General Assembly of the Commonwealth of Kentucky.* That all contracts made within this commonwealth, amounting to dollars and upwards, not reduced to writing and signed by the party or parties to be bound thereby, or some one for him, her or them, legally authorized, shall be, and the same are hereby declared void.

§ 2. *And be it further enacted,* That all contracts under dollars, which are not to be performed in months, shall be void, unless committed to writing and signed by the party or parties to be bound thereby, or some person legally authorized by him, her or them.

This act shall commence and be in force from and after the first day of next.

And the question being taken on concurring in the said resolution, it was resolved in the affirmative—Yeas 27, nays 4.

The yeas and nays being required by messrs. Beauchamp and Davidson, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Ballinger, Barbee, Bowman, Bowmar, Carneal, Crutcher, Davidson, Dawson, Dollerhide, Ewing, Faulkner, Ford, Given, Gorin, Jones, Lackey, Montjoy, Owens, Perrin, Pickett, Roper, Slaughter, Smith, Throckmorton, D. White, jr. Williams and Worthington.

Those who voted in the negative, are, messrs. Beauchamp, R. Hickman, Marshall and McAfee.

And so the said bill was rejected.

And then the senate adjourned.

SATURDAY, OCTOBER 27, 1821.

The senate assembled.

It was signified that the lieutenant governor would be absent from the service of the senate until Tuesday next.

Whereupon Mr. R. Hickman was unanimously called to the duties of the chair, as speaker for the occasion.

Mr. Roper, from the committee for courts of justice, to whom was referred the bill to amend the law limiting the time of bringing suits, reported the same without amendment.

Ordered, That the said bill be engrossed and read a third time.

Mr. Ewing, from the committee appointed, presented a bill to amend the act entitled "an act to alter the mode of taking in lists of taxable property," approved February 2, 1819; which being received was read the first time and ordered to be read a second time.

Mr. Bowmar, from the committee to whom was referred the bill regulating suits on promissory notes and bills of exchange, reported the same with an amendment, which being read was laid on the table.

Mr. Barbee, from the joint committee of enrolments, reported that the committee had examined sundry enrolled bills, and found the same truly enrolled, viz. An act to allow an additional number of justices of the peace in certain counties; an act to amend an act entitled "an act to establish a turnpike by the way of Williamsburg, Whitley county."

A message from the house of representatives, by Mr. Murray:

Mr. Speaker—The Speaker of the house of representatives having signed sundry enrolled bills, I am directed to lay the same before the senate for the signature of their Speaker.

And then he withdrew.

Mr. Speaker then signed the said bills, and they were delivered to the joint committee of enrolments, to be presented to the governor for his approbation.

The senate received a message in writing from the governor, by Mr. Secretary Breckinridge, containing a nomination, as follows:

Gentlemen of the Senate,

I nominate for your approbation, William Macbean, notary public in and for the county of Fayette.

JOHN ADAIR.

October 25, 1821.

Mr. Crutcher, from the committee to whom was referred a bill to regulate trials of the right of property in the country," reported the same with amendments; which being twice severally read, were, on the motion of Mr. White, committed to messrs. White, Flournoy, M'Asfee, Pope and Owens.

Mr. Flournoy, from the committee appointed to report on the governor's message in relation to a State Lunatic Hospital, made the following report, which was read and laid on the table:

The committee to whom was referred so much of the governor's message as relates to the establishment of a State Lunatic Hospital, have had the same under consideration, and report the following state of facts:

That nothing radical has occurred to change the circumstances in relation to fixing the seat for a State Lunatic Hospital, since the last session of the legislature. They state from competent authority, that the large building near Lexington, known by the name of the Fayette Hospital, is a valuable building and of good workmanship; stands in a convenient and healthy situation, which is well watered and easy of approach: that the right of the property in said building is still the same as was reported to the last session, and is for sale and can be bought by the commonwealth on terms that are reasonable and accommodating—the title is well secured.

The building is capacious, and when complete will serve for the care and safe-keeping of from sixty to seventy lunatics, and the ground and situation where it stands will admit of large and convenient extension, equal to any number of lunatics that ever may be necessary to provide for.

Your committee are advised and believe that the edifice, according to its present plan, may be completed with the sum of five thousand dollars, and when so, and placed under proper regulations, will produce large annual savings to the commonwealth; that the situation of the sufferers may be greatly ameliorated, and the recovery and restoration of many rendered probable, that are now in a state of hopeless mania, running at large, a reproach to society and the country in which they live.

Your committee further state, that they have had a renewal of the assurances that were given at the last session, for the professional services of the medical college, gratis.

Your committee, from a view of the whole premises, have come to the following resolutions:

Resolved, That it is highly expedient that a State Lunatic Hospital should be established.

Resolved, That Lexington is a position that combines centrality, health and many local advantages, and, under existing circumstances, ought to be preferred as the site therefor.

Resolved, That a committee be appointed to prepare and bring in a bill in pursuance of the above resolutions.

M. FLOURNOY,
JOHN PICKETT,
ELIAS BARBEE.

Mr. Flournoy, from the committee appointed, presented a bill to explain and amend the penal laws, as respects the trial of slaves; which was received and read the first time and ordered to be read a second time.

On the motion of Mr. Owens, leave was given to bring in a bill concerning certain head right lands; and Messrs. Owens, Ballinger and Lackey were appointed a committee to prepare and bring in the same.

A message from the house of representatives, by Mr. Wickliffe.

Mr. Speaker.—The house of representatives concur in the resolutions in relation the general post office; they concur in the amendments proposed by the senate, to the bill entitled “an act to allow an additional number of justices of the peace in certain counties;” and they have passed the bill from the senate, entitled “an act to authorize the appointment of an additional number of constables in certain counties,” with an amendment, in which they request the concurrence of the senate.

And then he withdrew.

And then the senate adjourned.

MONDAY, OCTOBER 29, 1821.

The senate assembled.

Mr. Pope presented a petition from John A. Tarascon, a resident of the town of Shippingport, in Jefferson county, signed by a number of individuals, praying to be authorized by law to make a lottery, for the purpose of effecting a variety of worthy intentions therein detailed, befriending agriculture, internal improvement and exportation; which being received and read, was referred to Messrs. Pope, M^r. Afee, White, Roper, Owens, Given and Ewing.

The amendment offered by the house of representatives, to the bill entitled “an act authorising the appointment of an additional number of constables in certain counties,” was taken up, considered and agreed to.

Ordered, That Mr. Jones inform the house of representatives thereof.

Mr. Barbee, from the joint committee of enrolments, reported that the committee had examined sundry enrolled bills and resolutions, of the following titles, and found the same truly enrolled, to wit: An act allowing further time for the county court of Henry county to make out and re-

turn their lists of taxable property for the year 1821; a resolution concerning the post office department; a resolution appointing joint committees to examine the different offices; and an act authorising the appointment of an additional number of constables in certain counties.

A message from the house of representatives, by Mr. Crawford:

Mr. Speaker—The Speaker of the house of representatives having signed certain enrolled bills and resolutions, I am directed to lay the same before the senate, for the signature of their Speaker.

And then he withdrew.

The Speaker then signed the said bills and resolutions, being the same reported by Mr. Barbee to-day, and they were delivered to the joint committee of enrolled bills, to be presented to the governor for his approbation.

Mr. Beauchamp, from the committee appointed, presented a bill to prevent swindling in this commonwealth; which being received was read the first time and ordered to be read a second time.

Bills from the house of representatives of the following titles, were severally read the second time, viz. 1. An act to alter the mode of admitting persons to bail under writs of *habeas corpus*; 2. an act for the benefit of the widow and heirs of Isaac Howdyshelt, deceased; and 3. an act further to regulate the payment of the debt due the commonwealth for the sale of vacant land.

The first and third were ordered to be read a third time, and the second was laid on the table.

Mr. Barbee had leave to report a bill to change the time of electing members to congress; which was read the first time and ordered to be read a second time.

Engrossed bills of the following titles were severally read the third time and the blanks filled, viz. An act to amend the militia law; an act to amend the law limiting the time of bringing suits; an act to amend the act reserving certain property from execution; an act to prevent any further subscriptions on the part of the state for bank stock; an act to exempt certain persons from working on highways.

Resolved, That the said bills do pass, and that the titles be, respectively, 1. an act to amend the militia law; 2. an act to amend the law limiting the time of bringing suits; 3. an act to amend the act reserving certain property from execution; 4. an act to prevent any further subscriptions

on the part of this state for bank stock ; 5. an act to exempt certain persons from working on highways.

Ordered, That Mr. M'Affee carry the first, Mr. Pope the second and fourth, Mr. Lackey the third, and Mr. Dawson the fifth bills to the house of representatives and request their concurrence.

A message from the house of representatives, by Mr. Sandford:

Mr. Speaker—The house of representatives have passed a bill entitled “an act for the removal of the seat of justice of Campbell county;” in which they request the concurrence of the senate.

And then he withdrew.

The bill was read the first time and ordered to be read a second time.

A bill for the relief and benefit of Mary M'Casland, formerly the wife and widow of Abel Shannonhouse, deceased; a bill to amend the act entitled “an act to alter the mode of taking in lists of taxable property,” and a bill to explain and amend the penal laws as respects the trial and punishment of slaves, were severally read the second time.

The two former were ordered to be engrossed and read a third time, and the latter was laid on the table.

Mr. Owens, from the committee appointed, presented a bill concerning certain head-right claims; which being received was read the first time and ordered to be read a second time.

On the motion of Mr. White, leave was given to bring in a bill to amend an act entitled “an act to amend the law concerning constables;” and Messrs. White, Owens and Faulkner were appointed a committee to prepare and bring in the same.

Mr. Marshall, from the committee on the bill to amend the law concerning executions, and the resolutions in relation to the subject of imprisonment for debt, presented a bill to amend the law concerning executions; which was received and read the first time and ordered to be read a second time.

Ordered, That the public printers be directed to print, forthwith, 200 copies of the said bill, for the legislature.

And then the senate adjourned.

TUESDAY, OCTOBER 30, 1821.

The senate assembled.

The lieutenant governor appeared and resumed the chair.

Mr. White presented a petition from sundry inhabitants of the counties of Jefferson, Shelby and Henry, praying for the erection of a new county according to boundaries here mentioned; which being received was referred, with the documents presented therewith, to the committee of propositions and grievances.

Mr. Pope, from the committee appointed, presented a bill for the benefit of John A. Tarascon; which being received was read the first time and ordered to be read a second time; and the rule being dispensed with, it was read a second time and ordered to be engrossed and read a third time.

The bill was then engrossed, and the rule being again dispensed with, it was read the third time.

Resolved, That the said bill pass, and that the title be "an act for the benefit of John A. Tarascon."

Ordered, That Mr. Pope carry the said bill to the house of representatives and request their concurrence.

Mr. White, from the committee to whom was referred the bill to regulate trials of the right of property in the country, reported the same with an amendment, which being received was twice read and disagreed to.

The bill was then amended at the clerk's table and ordered to be engrossed and read a third time.

The senate received a message in writing from the governor, by Mr. Anderson, containing official information that the governor did, on the 23d and 26th instant, approve and sign enrolled bills which originated in the senate, of the following titles, viz. An act declaring part of Floyd's Fork navigable; an act giving the judge of the thirteenth judicial district further time to move into and reside in the same; an act for the benefit of Paul Durrett, of Montgomery county; an act to authorise the citizens of Springfield to elect trustees for said town; an act to authorise the editors of certain newspapers to insert in their papers certain advertisements.

A message from the house of representatives, by Mr. Crawford:

Mr. Speaker—The house of representatives have received official information that the governor did, on the 27th and 29th instant, approve and sign bills and resolutions which originated in that house, of the following titles, viz. An act

to allow an additional number of justices of the peace to certain counties; an act to amend an act to establish a turnpike by the way of Williamsburg, Whitley county; an act allowing further time to the county court of Henry to make and return their lists of taxable property for the year 1821; an act to authorise the appointment of an additional number of constables in certain counties; a resolution for the appointment of joint committees to examine the different offices; resolutions concerning the post office department; a resolution for appointing a joint committee to examine the Bank of Kentucky.

That they had passed bills from the senate, of the following titles; to wit: An act for the benefit of Margaret Watson; an act to provide for the care and safe keeping of the stationary and furniture belonging to the legislature, and an act for the benefit of John White, with amendments to the latter.

And they have passed bills of the following titles, viz. An act declaring the north Fork of the Kentucky river a navigable stream; an act further to indulge the settlers on the lands acquired by the treaty of Tellico; an act to establish a seminary of learning in the county of Hart; an act to change the place of holding elections in the eastern precinct in Hardin county, and an act authorising the insertion of certain advertisements in the "Emporium and Commercial Advertiser."

In which amendments and bills they request the concurrence of the senate.

And then he withdrew.

The latter bill was read the first time; and the rule being dispensed with, it was read the second and third time.

Resolved, That the said bill pass, and that Mr. Pope inform the house of representatives thereof.

The Speaker laid before the senate a letter from the chairman of the trustees of the Transylvania University, covering a report in relation to the institution, which are as follows:

FRANKFORT, 29th October, 1821.

Sir:

I have the honor to enclose to you a report from the Trustees of Transylvania University, exhibiting the condition of that institution; and to say, that a committee appointed by the trustees from their body, is now in Frank-

fort, waiting upon the legislature, to communicate such further or other information as may be required.

I have the honor to be, with great respect,

Your obedient servant,

JAMES MORRISON, *Chairman.*

To William T. Barry, Esq. &c. &c. &c.

To the Senate and House of Representatives of the Commonwealth of Kentucky.

The Trustees of Transylvania University respectfully report: That pursuant to what they conceived to be the design of the legislature, in the organization of the seminary confided to their care, they have endeavored to place it on a foundation entitling it to the name of an University. How far they have been successful, they do not deem it necessary to say.

The College proper, is provided with the following officers:

Mr. H. HOLLEY, A. M. A. A. S. President.

R. H. BISHOP, Professor of Natural Philosophy and History.

J. F. JENKINS, A. B. Professor of Mathematics and Librarian.

J. ROCHE, Professor of Languages.

J. W. TIBBATS, Assistant Tutor.

B. O. PEERS, ditto.

C. S. RAFINESQUE, Professor of Natural History and Botany, and Teacher of Modern Languages.

T. ANDERSON, Treasurer.

C. HUMPHREYS, jun. Clerk.

L. USHER, Steward.

In the Medical College there are the following professors:

Doctor C. CALDWELL, M. D. Professor of the Institutes of Medicine, Teacher of Materia Medica.

B. W. DUDLEY, M. D. Professor of Anatomy and Surgery.

S. BROWN, M. D. Professor of the Theory and Practice of Physic.

W. H. RICHARDSON, M. D. Professor of Obstetrics and the Diseases of Women and Children.

J. BLYTHE, D. D. Professor of Chemistry.

The Law School is under the superintendence of WILLIAM T. BARRY, Esq.

The number of students promises to equal what it was during the last session ; in addition to which, the late class, commencing this fall, includes about thirty-five.

In providing the necessary buildings, instructors and other requisites, some debts have been unavoidably incurred. They are nearly as follow :

To the Bank of the United States,	7,016
Kentucky,	7,000
Private individuals, teachers, professors, workmen, &c. about	5,000
	\$ 19,016

The property held by this corporation, consists of a lot of land and buildings at Lexington, which are supposed to be worth \$ 50,000 ; 223 shares in the Bank of Kentucky, and some low priced, unproductive lands in the southern part of the state, together with the library, &c.

The stock of books and apparatus has been recently augmented by the purchases which the Dean of the Medical Faculty has been enabled to make, by the united aid of the legislature of Kentucky and the trustees of the town of Lexington. On this subject, a more detailed report may be made, on the arrival of Doctor Caldwell, if deemed necessary.

The income of the University is derived from the bank stock, tuition money, and fines. The receipts and disbursements stand nearly as follow :

The dividend on the bank stock is chiefly required to pay calls and discounts in bank.

The whole expenditure of the College proper, is something like	8,270
Of the Medical School, two of whose professors receive salaries,	2,000
	\$ 10,000

There will probably be received from tuition fees, this year,	7,650
From private subscription from the citizens of Lexington,	750
From fines, probably,	300
	8,700
	\$ 1,500

By which it appears, that during the present year there must necessarily be sustained a loss of something like 1,500 dollars. The trustees, being aware of this, prior to the com.

mencement of the present session, considered the subject of expenditure, with a view to retrenchment; but finding that impracticable, they endeavored to make up the deficit by augmenting the price of instruction one fourth, which, however, proves insufficient, and it is therefore deemed proper to make known to the legislature, that it is not practicable to support this institution as an University, on its present funds; and that it is absolutely necessary to make some additional provision, or it must retrograde to a mere grammar school. And as the incalculable value of a seminary, on the enlarged, liberal scale of Transylvania University, is known to the members of the legislature, the trustees deem it only necessary to mention what appropriation will be adequate to its preservation and prosperity.

Confining that appropriation to the lowest scale of further provision, it is conceived that if the legislature would cause the debt due from this institution to the Bank of Kentucky, to be transferred to the commonwealth, and the University relieved from the payment of the interest to the bank; and if the Commonwealth's Bank were directed to lend the University five thousand dollars, without interest; and lastly, if the Commonwealth's Bank were directed to pay this institution, out of its annual dividend, the sum of three thousand dollars, it would be sufficient for the wants of the establishment, and it could then, with proper management, continue to flourish.

In considering the financial concerns of this institution, perhaps it may be supposed for a moment, that the trustees have been imprudent, in embarking in large expences and incurring debts which they could not meet; but it will be recollected, that an University, competent to render instruction in the whole round of science, could not be organized in an adequate manner, provided with spacious buildings and able teachers, without great expence. And believing that it was in the contemplation of the legislature, that this should not only bear the name, but really be made an University in fact; and that, although funds were not placed at the disposal of the trustees on their appointment, it was the intention of the legislature to provide a liberal endowment at a convenient moment, the trustees have pursued such measures as they thought conformable to the designs of the legislature and conducive to the interest and honor of the state. However, if they have been mistaken, and have not faithfully or judiciously discharged the trust confided to them, they are content to be superseded, and that the insti-

tution be transferred to the guardianship of others who will better perform the duty.

By order of the board.

JAMES MORRISON, *Chairman.*

On motion,

Ordered, That the said report be committed to the committee of the whole house on the state of the commonwealth.

Mr. Marshall presented a petition from Luke Munsell, stating propositions to the legislature in relation to his Map of Kentucky, and praying that the same may be acted on; which being received was read and referred to the committee for courts of justice.

On the motion of Mr. Marshall, leave was given to bring in a bill for the benefit of William Starling, late keeper of the penitentiary; and messrs. Marshall, White and Jones were appointed a committee to prepare and bring in the same.

Mr. Carneal moved for leave to bring in a bill to repeal the law establishing a turnpike road from Georgetown to Cincinnati; and the question being taken for leave, it was resolved in the negative, and so the said motion was rejected.

The amendments offered by the house of representatives, to the bill entitled "an act for the benefit of John White," were considered and agreed to.

Ordered, That the clerk inform the house of representatives thereof.

Bills from the house of representatives of the following titles, viz. An act to alter the mode of admitting persons to bail under writs of *habeas corpus*, and an act further to regulate the payment of the debt due the commonwealth for the sale of vacant land, were severally read the third time.

The former was laid on the table.

Resolved, That the latter bill pass, and that Mr. Ewing inform the house of representatives thereof.

Engrossed bills of the following titles, viz. An act for the relief and benefit of Mary M'Casland, formerly the wife and widow of Abel Shannonhouse, deceased; an act to amend the act entitled "an act to alter the mode of taking in lists of taxable property;" were severally read the third time.

Resolved, That the said bills pass, and that the titles be, respectively, "an act for the relief and benefit of Mary M'Casland, formerly the wife and widow of Abel Shannonhouse, deceased," and "an act to amend the act entitled an act to alter the mode of taking in lists of taxable property."

Ordered. That Mr. Pope carry the first, and Mr. Ewing the second bill to the house of representatives and request their concurrence.

On motion of Mr. Carneal,

Ordered. That the bill from the house of representatives, entitled "an act to remove the seat of justice of Campbell county," be laid on the table.

A bill to change the time of electing members of congress, and a bill to prevent swindling in this commonwealth, were severally read the second time.

The former was ordered to be engrossed and read a third time, and the latter was referred to messrs. Flournoy, Beauchamp, Dollerhide and White.

Mr. Roper, from the select committee to whom was referred the nomination of Solomon P. Sharp as attorney general, made the following report, viz.

The select committee to whom was referred the nomination of Solomon P. Sharp as attorney general for the commonwealth of Kentucky, have had the matter under consideration, and have come to the following resolution thereupon, to wit:

Resolved. as the opinion of this committee, that the senate ought to advise and consent to the said appointment.

Which being received was twice read and concurred in.

Resolved. That the senate unanimously advise and consent to the said appointment; and that messrs. Ewing and Gorin acquaint the governor therewith.

On the motion of Mr. White, the bill to explain and amend the penal laws, as respects the trial and punishment of slaves, was committed to messrs. White, Flournoy and Roper.

And then the senate adjourned.

WEDNESDAY, OCTOBER 31, 1821.

The senate assembled.

Bills from the house of representatives, of the following titles, were severally read the first time and ordered to be read a second, viz. 1. An act declaring the north fork of Kentucky river a navigable stream; 2. an act further to indulge the settlers on the lands acquired by the treaty of Tellico; 3. an act to change the place of holding elections in the eastern precinct in Hardin county; 4. an act to establish a seminary of learning in the county of Hart.

The rule being dispensed with, they were read a second time, and the first committed to messrs. Lackey, Ballinger and Jones.

The rule was again dispensed with, and the second, third and fourth bills were severally read the third time.

Resolved, That the said bills pass, and that Mr. Ewing carry the second and third, and Mr. Barbee the fourth bill, and inform the house of representatives thereof.

A bill concerning certain head-right claims, was read a second time and committed to messrs. Crutcher, Owens, M'Afee, Ewing and Given.

Engrossed bills of the following titles, viz. an act to change the time of electing members of congress, and an act to regulate trials of the right of property in the country, were severally read the third time.

Resolved, That the said bills pass, and that the titles be, respectively, "an act to change the time of electing members of congress," and "an act to regulate trials of the right of property in the country."

Ordered, That Mr. Barbee carry the former, and Mr. M'Afee the latter bill to the house of representatives and request their concurrence.

The bill from the house of representatives, entitled "an act for the benefit of the widow and heirs of Isaac Howdyselt, deceased," was read the third time.

Resolved, That the said bill pass, and that Mr. Ewing inform the house of representatives thereof.

On the motion of Mr. Owens, leave was given to bring in a bill for the benefit of the Robinson Academy; and messrs. Owens, Lackey and Dollerhide were appointed a committee to prepare and bring in the same.

The senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Lackey in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Lackey reported, that the committee had, according to order, taken under consideration a bill to increase the number of judicial districts and to regulate the terms of the several circuit courts, and had gone through the same with several amendments, which he handed in at the clerk's table, where the same were twice severally read.

The first amendment proposed to make the county of Bracken a part of the second judicial district, so as to arrange that district as follows, to wit: The second district,

shall be composed of the counties of Harrison, Pendleton, Campbell, Grant, Bracken and Boone.

Mr. Perrin proposed to strike out the word "Bracken" and insert the word "Nicholas," so as to make the arrangement of the said district to read thus: The second district shall be composed of the counties of Harrison, Pendleton, Campbell, Grant, Boone and Nicholas.

And the question being taken on agreeing thereto, it was resolved in the negative—Yeas 9, nays 19.

The yeas and nays being required by messrs. Perrin and Carneal, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Ballinger, Beauchamp, Faulkner, Gorin, Owens, Perrin, Pickett, Throckmorton and Worthington.

Those who voted in the negative, are, messrs. Barbee, Bowman, Bowmar, Crutcher, Davidson, Ewing, Ford, Given, J. L. Hickman, Jones, Marshall, M'Afee, Montjoy, Pope, Roper, Slaughter, Smith, White and Williams.

And so the proposition was rejected.

The amendments made in the committee of the whole were agreed to, and the bill ordered to be engrossed and read a third time.

On the motion of Mr. Marshall, leave was given to bring in a bill to add a fourth judge to the court of appeals and for other purposes; and messrs. Marshall, Roper and White were appointed a committee to prepare and bring in the same.

Mr. Crutcher, from the committee to whom was referred a bill concerning head right claims, reported the same with an amendment.

And then the senate adjourned.

THURSDAY, NOVEMBER 1, 1821.

The senate assembled.

Mr. Given presented a petition from a number of the citizens of the county of Caldwell, stating that in consequence of the increase of business before their circuit court, justice could not be administered to the litigants for want of time, and praying that an additional week be allowed to each of their terms.

Mr. Given also presented a petition of William Birdsong, formerly sheriff of the said county of Caldwell, praying that certain delinquent lists be credited and paid to him.

Which petitions being received were read and referred to select committees—the former to messrs. Given, Pope and Bowman; the latter to messrs. Given, J. L. Hickman and Williams; who have leave to report each or either by bill or otherwise.

Mr. Montjoy presented a petition from Nancy Parker, of the county of Boone, stating that her husband, Silas Parker, had left her without any just cause, and praying for a divorce, or to be put on the footing of poor widows; which being received and read, was adjudged not to come within the provision of the law respecting notice, in such cases made and provided, and was therefore permitted to be withdrawn.

Mr. Ewing, from the committee of propositions and grievances, made the following report, to wit:

The committee of propositions and grievances have, according to order, had under consideration the petition of sundry inhabitants of the counties of Henry, Shelby and Jefferson, to them referred, praying a new county to be formed out of part of each of the said counties, and have come to the following resolution thereupon, to wit:

Resolved, That the said petition is reasonable.

Which being twice read, Mr. Ford moved to amend the said resolution, by striking out the words "is reasonable," and inserting in lieu thereof the words "be rejected;" and the question being taken thereon, it was resolved in the affirmative—Yeas 16, nays 15.

The yeas and nays being required by messrs. Crutcher and Ewing, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Ballinger, Bowman, Carneal, Crutcher, Faulkner, Ford, Given, J. L. Hickman, Jones, Marshall, Owens, Pickett, Pope, White, Williams and Worthington.

Those who voted in the negative, are, messrs. Anderson, Barbee, Beauchamp, Bowmar, Davidson, Ewing, Flournoy, Gorin, R. Hickman, Lackey, Montjoy, Perrin, Roper, Smith, and Throckmorton.

And so the said resolution was rejected.

The senate received a message in writing from the governor, by Mr. Anderson, containing nominations in the civil and military departments, as follows:

Gentlemen of the Senate,

Since the last session of the legislature, sundry vacancies have taken place in the civil department, which have been

filled by appointments to expire with the present session. I therefore nominate for your advice and consent, the following gentlemen, to be commissioned during good behaviour, to wit:

Benjamin I. Harrison, notary public in and for the county of Jefferson.

Benjamin Monroe, commonwealth's attorney in and for the 8th judicial district, in the place of R. A. Buckner, resigned.

George I. B. Caldwell, notary public in and for the county of Caldwell.

Gabriel Tandy, notary public in and for the county of Mercer.

Anthony Waggener, notary public in and for the county of Green.

William M'Feaver, notary public in and for the county of Jefferson.

Joseph M. White, commonwealth's attorney in and for the 4th judicial district, in the place of William Anderson, resigned.

William W. Blair, circuit judge in and for the commonwealth of Kentucky, to preside in the 11th judicial district, in the place of Eli Shortridge, resigned.

James Cowan, commonwealth's attorney in and for the 3d judicial district, in the place of William W. Blair, resigned.

Richard M. Gaines, notary public in and for the county of Pendleton.

Willis Curd, notary public in and for the county of Mercer, in the place of David G. Cowan, resigned.

JOHN ADAIR.

November 1st, 1821.

Gentlemen of the Senate,

I nominate for your advice and consent, the following gentlemen, to be commissioned during good behaviour, viz.

Benjamin I. Thornton, lieutenant colonel of the 47th regiment, in the place of Henry Ellis, resigned.

William Hamilton, major of the same regiment, in the place of Benjamin I. Thornton, if promoted.

Thomas T. Bush, colonel of the 17th regiment, in the place of Francis F. Jackson, refused.

Thomas C. Green, lieutenant colonel of the same regiment, in the place of Thomas T. Bush, if promoted.

Barnett Parrish, sen. major of the same regiment, in the place of Thomas C. Green, if promoted.

Michael Flinn, lieutenant colonel of the 36th regiment, in the place of John H. Campbell, removed.

Edward Young, major of the same regiment, in the place of Michael Flinn, if promoted.

Meredith Hieatte, colonel of the 37th regiment, in the place of James Bristoe, deceased.

William Scott, lieutenant colonel of the same regiment, in the place of Meredith Hieatte, if promoted.

Nicholas Gassaway, major of the same regiment, in the place of William Scott, if promoted.

JOHN ADAIR.

November 1st, 1821.

Gentlemen of the Senate,

Since the last session of the legislature, sundry vacancies have taken place in the military department, which have been filled by appointments to expire with the present session. I therefore nominate for your advice and consent, the following gentlemen, to be commissioned during good behaviour, to wit:

William Buford, colonel of the 106th regiment, lately formed, to take rank from the 24th of January 1821.

Anderson Taylor, lieutenant colonel of the same regiment, to take rank from the same date.

Alexander Dunlap, major of the same regiment, to take rank from the same date.

James M'Connell, lieutenant colonel of the 11th regiment, in the place of William Buford, stricken off into the 106th regiment, to take rank from the same date.

Andrew Muldrough, major of the same regiment, in the place of Anderson Taylor, stricken off into the 106th regiment, to take rank from the same date.

John C. Symms, division inspector of the 13th division, lately formed, to take rank from the 31st January 1821.

Samuel Wilson, brigadier general of the 10th brigade, in the place of James Allen, resigned, to take rank from the 16th of February 1821.

James B. January, major of the 10th regiment, in the place of E. J. Wilson, resigned, to take rank from the 16th day of February 1821.

Reuben Adams, major of the 100th regiment, in the place of John Glass, resigned, to take rank from the 19th day of February 1821.

Morton A. Rucker, brigade inspector of the 19th brigade, to take rank from the 15th day of March 1821.

James Ballard, colonel of the 2d regiment, in the place of Benjamin Doom, resigned, to take rank from the 21st day of March 1821.

Joseph Gregg, lieutenant colonel of the same regiment, in the place of James Ballard, if promoted, to take rank from the same date.

Peter Swets, major of the same regiment, in the place of Joseph Gregg, if promoted, to take rank from the same date.

Thomas Given, lieutenant colonel of the 76th regiment, in the place of Isaac Metcalfe, resigned, to take rank from the 27th day of March 1821.

Matthew Herron, major of the same regiment, in the place of James Bishop, resigned, to take rank from the same date.

William Olds, lieutenant colonel of the 9th regiment, in the place of Oliver Anderson, resigned, to take rank from the same date.

Joel Turnham, major of the 9th regiment, in the place of William Olds, if promoted, to take rank from the 27th day of March 1821.

Andrew W. Knox, major of the 43d regiment, in the place of Harvey A. Smith, resigned, to take rank from the 29th day of March 1821.

Asa Young, major of the 94th regiment, in the place of Maximillian Haley, resigned, to take rank from the 17th day of April 1821.

Leslie Combs, major of the 42d regiment, in the place of Percival Butler, resigned, to take rank from the 25th of April 1821.

John Rodman, colonel of the 33th regiment, in the place of Robert G. Dougherty, resigned, to take rank from the 26th day of April 1821.

John Wooden, lieutenant colonel of the same regiment, in the place of John Rodman, if promoted, to take rank from the same date.

Joseph Thomas, major of the same regiment, in the place of John Wooden, if promoted, to take rank from the same date.

Samuel Sowers, colonel of the 103d regiment, lately formed, to take rank from the 7th day of May 1821.

Thomas Buckner, lieutenant colonel of the same regiment, to take rank from the same date.

Leonard Stephens, major of the same regiment, to take rank from the same date.

Joel Garnett, brigade inspector of the 22d brigade, to take rank from

Benjamin B. Fowler, brigade quartermaster of the same brigade, to take rank

William M. Sudduth, lieutenant colonel of the 65th regiment, in the place of Robert Morrow, resigned, to take rank from the 8th day of May 1821.

Ephraim Caldwell, major of the same regiment, in the place of William M. Sudduth, if promoted, to take rank from the same date.

John Young, lieutenant colonel of the 27th regiment, in the place of Robert Lewis, resigned, to take rank from the 24th day of May 1821.

James Allen, major of the same regiment, in the place of John Young, if promoted, to take rank from the same date.

Thomas Wells, jun. major of the 69th regiment, in the place of Jacob Myers, resigned, to take rank from the 24th of May 1821.

Absalom Oldham, lieutenant colonel of the 78th regiment, in the place of Aaron Sharp, deceased, to take rank from the 20th day of June 1821.

Ebenezer Park, major of the same regiment, in the place of Absalom Oldham, if promoted, to take rank from the same date.

Lemuel Williams, lieutenant colonel of the 46th regiment, in the place of James M'Colgan, resigned, to take rank from 22d June 1821.

Charles P. Cabaness, colonel of the 16th regiment, in the place of Robert Parrott, resigned, to take rank from the 22d day of June 1821.

Pleasant Sandidge, lieutenant colonel of the same regiment, in the place of Charles P. Cabaness, if promoted, to take rank from the same date.

Peter B. Atwood, major of the same regiment, in the place of Pleasant Sandidge, if promoted, to take rank from the same date.

Joseph R. Delaney, colonel of the 33d regiment, in the place of John Blue, resigned, to take rank from the 23d of July 1821.

Hugh W. Robb, lieutenant colonel of the same regiment, in the place of Joseph R. Delaney, if promoted, to take rank from the same date.

John Davenport, major of the same regiment, in the place of Hugh W. Kobb, if promoted, to take rank from the same date.

Thomas M. Buckley, brigade major of the 21st brigade, in the place of George W. Hoagland, resigned, to take rank from 25th July 1821.

James Canady, lieutenant colonel of the 74th regiment, in the place of William Labb, resigned, to take rank from 11th August 1821.

William Freeman, major of the same regiment, in the place of Abraham Riffe, removed, to take rank from the same date.

James Wilson, colonel of the 46th regiment, in the place of Samuel Wilson, if promoted, to take rank from the 11th of August 1821.

John M. Emerson, major of the same regiment, to take rank from the same date.

Peter Brown, colonel of the 4th regiment, in the place of Hezekiah Ray, resigned, to take rank from the same date.

John Purdy, lieutenant colonel of the same regiment, in the place of Peter Brown, if promoted, to take rank from the same date.

John Ceissell, major of the same regiment, in the place of John Purdy, if promoted, to take rank from the same date.

George Roberts, brigade quartermaster of the 8th brigade, in the place of William Brown, deceased, to take rank from the 11th of August, 1821.

John Conner, major of the 20th regiment, in the place of William Henry, resigned, to take rank from the 25th day of September 1821.

Peter B. Clarkson, brigade quartermaster of the 4th brigade, to take rank from the 25th day of September 1821.

Jordon H. Walker, major of the 92d regiment, in the place of James Milam, resigned, to take rank from the 30th of March 1821.

James A. Paxton, brigade quartermaster of the 7th brigade, to take rank from 30th April 1821.

Cardwell Breathitt, brigade inspector of the 11th brigade, in the place of Richard O. Emmitt, resigned, to take rank from the 18th of May 1821.

James Hollinhead, colonel of the 73d regiment, in the place of William Glenn, resigned, to take rank from the 5th day of April 1821.

William Newton, lieutenant colonel of the same regiment, in the place of James Hollinhead, if promoted, to take rank from the same date.

John Field, major of the same regiment, to take rank from the same date.

George B. Cooper, lieutenant colonel of the 95th regiment, in the place of Thomas Dollerhide, resigned, to take rank from the 2d of April 1821.

Reuben Ford, major of the same regiment, in the place of Samuel Tate, resigned, to take rank from the same date.

Joseph Sallee, lieutenant colonel of the 53d regiment, in the place of John Foster, resigned, to take rank from the 6th of March 1821.

Stockdon Dodson, major of the same regiment, in the place of John Duffey, resigned, to take rank from the same date.

John Whiles, major of the 44th regiment, in the place of Charles Rusk, removed, to take rank from the same date.

Chistern Scott, division quartermaster of the 13th division, lately formed, to take rank from the 31st day of January 1821.

JOHN ADAIR.

November 1st, 1821.

The following bills were presented from the several committees appointed to prepare and bring in the same, viz.

On the motion of Mr. Jones—A bill providing for the repairing and improving the penitentiary.

On the motion of Mr. Owens—A bill for the benefit of the Robertson Academy.

On the motion of Mr. Marshall—A bill for the benefit of William Starling, jun. late keeper of the penitentiary.

Which being received were severally read the first time and ordered to be read a second time.

Mr. Flournoy, from the committee to whom was referred the bill to prevent swindling in this commonwealth, reported the same with an amendment, which being received was twice read and committed to a committee of the whole house on the state of the commonwealth.

On the motion of Mr. Bowmar, leave was given to withdraw the petitions and papers in relation to the division of the counties of Jefferson, Shelby and Henry, which was done accordingly.

Mr. Gorin moved the following resolution, viz.

Resolved, That the order made at the present session of the senate, for changing the hour of adjournment, be rescinded.

And the question being taken thereon, it was resolved in the affirmative—Yeas 18, nays 15.

The yeas and nays being required by messrs. Ewing and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Hallinger, Beauchamp, Bowman, Carneal, Davidson, Dollarhide, Flournoy, Ford, Given, Gorin, J. L. Hickman, R. Hickman, Marshall, M'Affee, Montjoy, Owens and Roper.

Those who voted in the negative, are, messrs. Barbee, Bowman, Crutcher, Dawson, Ewing, Faulkner, Jones, Lackey, Perrin, Pickett, Pope, Smith, White, Williams and Worthington.

Mr. Lackey, from the committee to whom was referred the bill from the house of representatives, entitled "an act declaring the north fork of Kentucky river a navigable stream, reported the same with an amendment, which being twice read was concurred in.

The bill was then read the third time with the amendment.

Resolved, That the said bill pass as amended, and that the title be amended to read, "an act declaring the north fork of the Kentucky river a navigable stream, and for other purposes."

Ordered, That the clerk inform the house of representatives thereof and request their concurrence in the said amendments.

On the motion of Mr. Carneal, the bill from the house of representatives, entitled "an act for the removal of the seat of justice of Campbell county, was taken up and committed to the committee of propositions and grievances.

And then the senate adjourned.

FRIDAY, NOVEMBER 2, 1821.

The senate assembled.

Mr. Thompson Ward, the senator from Greenup and Lewis, appeared and took his seat.

Mr. Given presented a petition of John Knight, Newsam Barne, Aaron Corn, William Carr and James Barnes, securities for Thomas Barnett, sheriff of Livingston county,

stating that they were deceived in the character of the said Barnett, and among various other things, that he had squandered the moneys collected by him in his official capacity, and praying that they may be released from their undertaking as securities as aforesaid; which being received was read and referred to the committee for courts of justice.

Leave was given to bring in the following bills, viz.

On the motion of Mr. Montjoy—A bill for the relief of Polly Parker, late Polly Earls.

On the motion of Mr. Ewing—A bill to revive and continue in force an act providing for the appointment of commonwealth's attorneys.

Messrs. Montjoy, Carneal and Perrin were appointed a committee to prepare and bring in the former, and messrs. Ewing, Marshall and White, the latter.

Mr. White, from the committee appointed, reported a bill to amend the law concerning constables; which was received and read the first time; and the rule being dispensed with, it was read the second time and committed to messrs. Crutcher, White, Beauchamp, Perrin and Ward.

Ordered, That Mr. Jones be appointed on the committee to whom was referred the bill to amend and repeal in part the act to amend and extend the charter of the Bank of Kentucky.

On the motion of Mr. Marshall,

Orde ed, That the committee for courts of justice be discharged from any further consideration of the memorial of Luke Munsell, and that the same be referred to messrs. J. L. Hickman, Carneal, Owens, Bowmar and Jones.

A message from the house of representatives, by Mr. Alexander :

Mr. Speaker—The house of representatives have passed the bill from the senate, entitled "an act for the benefit of John A. Tarascon," with an amendment, in which they request the concurrence of the senate.

And then he withdrew.

The said amendment was then considered and agreed to.

Ordered, That Mr. Pope inform the house of representatives thereof.

A bill concerning head-right claims, and a bill for the repairing and improving the penitentiary, were severally read the second time.

The former was committed to messrs. White, Owens and Given, and the latter was laid on the table.

Ordered, That 200 copies of the latter bill be printed, forthwith, by the public printers, for the use of the legislature.

On the motion of Mr. Marshall, a bill concerning executions, was re committed to the committee who presented the same.

An engrossed bill entitled "an act to increase the number of judicial districts and to regulate the terms of the several circuit courts, was read the third time.

And the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 22. nays 10.

The yeas and nays being required by messrs. Perrin and Pickett, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Bowman, Carneal, Crutcher, Davidson, Ewing, Flournoy, Ford, Given, J. L. Hickman, R. Hickman, Jones, Lackey, Marshall, Montjoy, Pickett, Pope, Slaughter, Smith, Ward and White.

Those who voted in the negative, are, messrs. Beauchamp, Bowmar, Dawson, Dollerhide, Faulkner, Gorin, Owens, Perrin, Throckmorton and Werthington.

Resolved, That the said bill pass, and that the title be "an act to increase and regulate the judicial districts."

Ordered, That the clerk carry the said bill to the house of representatives and request their concurrence.

A message from the house of representatives, by Mr. M'Elroy:

Mr. Speaker—The house of representatives have passed a bill entitled "an act to extend the limits of the town of Morganfield;" in which they request the concurrence of the senate.

And then he withdrew.

On the motion of Mr. Davidson.

Ordered That leave of absence be granted to Mr. Pope from the service of the senate, until Wednesday next.

A bill for the benefit of the Robertson Academy, was read the second time.

And then the senate adjourned.

SATURDAY, NOVEMBER 3, 1821.

The senate assembled.

It was signified that the lieutenant governor would be absent from the service of the senate until Tuesday next.

Whereupon Mr. R. Hickman was unanimously called to the duties of the chair, as speaker for the occasion.

Mr. Given presented the petition of the executors of Patrick F. Rice, deceased, praying that a law may be passed authorising the sale of a certain tract of land therein mentioned; which was read and referred to Messrs. Given, Bowmar and Ewing, with leave to report by bill or otherwise.

Mr. Ballinger, from the joint committee of enrolments, reported that they had examined sundry enrolled bills of the following titles, to wit: An act for the benefit of John White and Sally Henderson; an act for the benefit of Margaret Watson: an act providing for the safe-keeping of the stationary and furniture belonging to the legislature; an act further to regulate the payment of the debt due the commonwealth for the sale of vacant lands: an act to change the place of holding elections in the eastern precinct in Hardin county; an act further to indulge the settlers on the lands acquired by the treaty of Tellico; an act to establish a seminary in the county of Hart; an act for the benefit of the widow and heirs of Isaac Howdyshelt, deceased; an act for the benefit of John A. Tarascon; and had found them truly enrolled.

A message from the house of representatives, by Mr. Crawford:

Mr. Speaker—The Speaker of the house of representatives having signed sundry enrolled bills, I am instructed to lay the same before the senate for the signature of their Speaker.

And then he withdrew.

Whereupon the Speaker signed the said bills, being the same reported to-day by Mr. Ballinger, and they were delivered to the joint committee, to be laid before the governor for his approbation and signature.

And after a short time, Mr. Ballinger, from said committee, reported that they had performed that duty.

Mr. White, from the select committee to whom was referred a bill concerning head right claims, and a bill to amend the law concerning constables, reported the same with amendments, which were severally concurred in and the bills ordered to be engrossed and read a third time.

The following bills were reported from the several committees appointed to prepare and bring in the same, to wit:

By Mr. Given—1. A bill for the benefit of William Byrd-song, sheriff of Caldwell county.

By Mr. Ewing—2. A bill to revive and continue in force an act entitled "an act providing for the appointment of commonwealth's attorneys," approved February 12, 1820.

By Mr. Bowman—3. A bill to amend an act entitled "an act to amend an act directing certain surveyors to transcribe certain entry books.

And by Mr. Owens—4. A bill to amend the several acts directing the course of descents.

Which were severally read the first time and ordered to be read a second time.

The rule being dispensed with, the first bill was read a second time and ordered to be engrossed and read a third time.

A bill for the benefit of the Robertson Academy, was read a second time and committed to Messrs. Lackey, Ewing and Gorin.

Leave was given to bring in the following bills, to wit:

On the motion of Mr. Perrin—1. A bill for the benefit of the keepers of the turnpike gates.

On the motion of Mr. Given—2. A bill to prevent horse-racing on the public roads.

On the motion of Mr. White—3. A bill to amend an act entitled "an act providing a summary mode of recovering debts."

And on the motion of Mr. Ward—4. A bill declaring the power of county courts relative to opening roads.

Messrs. Perrin, Owens and Dohlerhule were appointed a committee to prepare and bring in the first; Messrs. Given, Ewing, Anderson and Slaughter, the second; Messrs. White, Carneal and Owens, the third; and Messrs. Ward, Jones and Bowman, the fourth.

A bill from the house of representatives, entitled "an act to extend the limits of the town of Morganfield," was read the first time.

The rule being dispensed with, it was read a second and third time.

Resolved, That the said bill do pass, and that the clerk inform the house of representatives thereof.

And then the senate adjourned.

MONDAY, NOVEMBER 5, 1821.

The senate assembled.

Mr. Carneal presented the petition of sundry citizens of Campbell county, remonstrating against the removal of the seat of justice of said county; which was read and referred to the committee of propositions and grievances.

The following bills were reported from the several committees appointed to prepare and bring in the same, to wit:

By Mr. Marshall—1. A bill to add a fourth judge to the court of appeals, and for other purposes.

By Mr. Slaughter—2. A bill to prevent horse-racing on the public highways.

By Mr. Perrin—3. A bill for the benefit of keepers of turnpike gates.

By Mr. Given—4. A bill to establish counties on the south and west of Tennessee river.

And by Mr. Ward—5. A bill declaring the power of county courts relative to opening roads.

Which were severally read the first time and ordered to be read a second time.

The rule being dispensed with, the first and second were read a second time—the first committed to a committee of the whole house on the state of the commonwealth, and the second was committed to messrs. Slaughter, J. L. Hickman and Faulkner.

Mr. Lackey, from the select committee to whom was referred a bill for the benefit of the Robertson Academy, reported the same with amendments, which were concurred in and the bill laid on the table until to-morrow.

The senate received information, by the secretary of state, that the governor did on this day approve and sign sundry enrolled bills which originated in the senate, of the following titles, to wit: An act for the benefit of John White and Sally Henderson; an act for the benefit of Margaret Watson; an act providing for the safe keeping of the stationary and furniture belonging to the legislature; an act for the benefit of John A. Tarascon.

Ordered. That the clerk inform the house of representatives thereof.

The senate received from the governor, by the secretary of state, a communication in writing containing certain nominations. The rule being dispensed with, they were taken up and read as follows, to wit:

Gentlemen of the Senate.

I nominate for your advice and consent, Denton Darby, colonel of the 108th regiment, lately formed, to take rank from the 10th of May 1821.

Nimrod Crim, lieutenant colonel of the same regiment, to take rank from the same date.

William Hodge, major of the same regiment, to take rank from the same date.

JOHN ADAIR.

November 4th, 1821.

Which were committed to Messrs. Ewing, Faulkner, Lackey, Bowman and Bowmar.

The following bills were severally read a second time, to wit: 1. A bill to amend an act directing certain surveyors to transcribe certain entry books; 2. a bill for the benefit of William Starling, jun. late keeper of the penitentiary; 3. a bill to amend the several acts directing the course of de. scents; and 4. a bill to revive the act providing for the ap. pointment of commonwealth's attorneys.

The first was ordered to be engrossed and read a third time; the second, committed to the committee for courts of justice; the third, to a committee of the whole house on the state of the commonwealth, and the fourth to Messrs. Ward, Lackey and Smith.

Engrossed bills, to wit: 1. A bill for the benefit of the sheriff of Caldwell county; 2. a bill to amend the law concerning constables; and 3. a bill concerning head right claims, were severally read a third time and the blanks in the third partially filled.

Resolved, That the first bill do pass, and that the title be "an act for the benefit of the sheriff of Caldwell county."

Ordered, That Mr. Given do carry said bill to the house of representatives and request their concurrence.

The second bill was committed to Messrs. Marshall, Carneal, Ward and Owens, and the third to Messrs. Marshall, Owens and Given.

The senate received from the governor, by Mr. Andersen, a message in writing containing certain military nominations. The rule being dispensed with, they were taken up and read as follows, to wit:

Gentlemen of the Senate.

I nominate for your advice and consent, the following gentlemen, to be commissioned during good behaviour, viz.

Azariah Doty, colonel of the 26th regiment, in the place of Moses Hubbard, resigned.

Robert Fowler, lieutenant colonel of the same regiment, in the place of Azariah Doty, if promoted.

Rice L. Stewart, major of the same regiment, in the place of Robert Fowler, if promoted.

JOHN ADAIR.

November 5th, 1821.

Resolved, That the senate advise and consent to said appointments.

The senate took up the military nominations made on the 1st inst.

Resolved, That the senate advise and consent to the appointments agreeably to the said nominations, except the following: Benjamin I. Thornton, lieutenant colonel of the 47th regiment; William Hamilton, major of the same regiment; Thomas T. Bush, colonel of the 17th regiment; Thomas C. Green, lieutenant colonel of the same; Barnett Parrish, sen. major of the same regiment; Michael Flinn, lieutenant colonel of the 36th regiment; Edward Young, major of the same regiment; James Ballard, colonel of the 2d regiment; Joseph Gregg, lieutenant colonel of the same regiment; Peter Swets, major of the same regiment; William Olds, lieutenant colonel of the 9th regiment; Joel Turnham, major of the same regiment; Andrew W. Knox, major of the 43d regiment; John Rodman, colonel of the 38th regiment; John Wooden, lieutenant colonel of the same regiment; Joseph Thomas, major of the same regiment; John Young, lieutenant colonel of the 27th regiment; James Allen, major of the same regiment; Thomas Wells, jun. major of the 69th regiment; Absalom Oldham, lieutenant colonel of the 78th regiment; Ebenezer Park, major of the same regiment; Thomas M. Buckley, brigade major of the 21st brigade; Peter Brown, colonel of the 4th regiment; John Purdy, lieutenant colonel of the same regiment; John Ceissell, major of the same regiment; George Roberts, brigade quartermaster of the 8th brigade; John Whiles, major of the 44th regiment, and Samuel Sowers, colonel of the 103d regiment—all of which were severally laid on the table, except the latter, which was committed to messrs. Montjoy, Perrin and Faulkner.

Ordered, That messrs. Faulkner and Given inform the governor thereof.

On the motion of Mr. Slaughter, leave of absence was granted to Mr. Crutcher, from the service of the senate, until Monday next.

And then the senate adjourned.

TUESDAY, NOVEMBER 6, 1821.

The senate assembled.

The lieutenant governor appeared and resumed the duties of the chair.

A message from the house of representatives, by Mr. Warfield:

Mr. Speaker—The house of representatives have received official information that the governor did, on the 5th inst. approve and sign sundry enrolled bills and an enrolled resolution, of the following titles, to wit: An act further to regulate the payment of the debt due the commonwealth for the sale of vacant lands; an act further to indulge the settlers on the lands acquired by the treaty of Tellico; an act to change the place of holding elections in the eastern precinct in Hardin county; an act to establish a seminary of learning in the county of Hart; an act for the benefit of the widow and heirs of Isaac Howdyshelt, deceased; an act authorising the insertion of certain advertisements in the *Emporium and Commercial Advertiser*; and a resolution directing the *Laws of Kentucky, Decisions of the Court of Appeals and Journals of the General Assembly* to be furnished the Transylvania University.

They concur in the amendment proposed by the senate, to a bill entitled "an act declaring the north fork of Kentucky river a navigable stream;" they have passed a bill from the senate, entitled "an act for the benefit of the wife and children of Benjamin Herndon; and they have passed bills of the following titles, to wit: An act for the benefit of Solomon Griffin and the heirs of Catherine Smith, and an act to amend the several acts taxing billiard tables and for other purposes; in which they request the concurrence of the senate.

And then he withdrew.

Mr. Owens presented the petition of sundry citizens of Knox county, praying certain alterations in the Wilderness Turnpike Road; which was read and referred to the committee of propositions and grievances.

Mr. White, from the select committee raised for that purpose, reported a bill to amend an act providing a summary mode of recovering debts; which was read the first time and ordered to be read a second time.

Mr. Marshall, from the select committee to whom was referred an engrossed bill to amend an act entitled "an act

to amend the law concerning constables," reported the same with amendments, which were concurred in with amendments, and the bill ordered to be re-engrossed and read again.

The senate received from the governor, by the secretary of state, two communications in writing. The rule being dispensed with, the communication containing certain military nominations, was taken up and read as follows, to wit:

Gentlemen of the Senate.

I nominate for your advice and consent, the following gentlemen, to be commissioned during good behaviour, viz.

Joseph Stranghan, lieutenant colonel of the 7th regiment, in the place of James Dejanett, resigned.

George Shackelford, major of the same regiment, in the place of Joseph Stranghan, if promoted.

JOHN ADAIR.

November 6th, 1821.

Resolved, That the senate advise and consent to said appointments.

The military nominations made on the 1st instant were again taken up.

Resolved, That the senate advise and consent to the appointments of John Rodman, colonel of the 38th regiment; John Wooden, lieutenant colonel of the same regiment; Joseph Thomas, major of the same regiment; and Thomas M. Buckley, brigade major of the 21st brigade.

Ordered, That messrs. Jones, Flournoy and White inform the governor thereof.

On the motion of Mr. Owens, leave was given to bring in a bill allowing jailers fees in certain cases; and messrs. Owens, Pickett and Ward were appointed a committee to prepare and bring in the same.

And after some time, Mr. Owens, from said committee, reported a bill, which was read the first time and ordered to be read a second time.

The senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Barbee in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Barbee reported, that the committee had, according to order, taken under consideration a bill providing for the sale of the vacant lands west of the Tennessee river, and had made some progress therein; but not having

time to go through the same, had instructed him to move for leave to sit again.

Which being granted accordingly, the further orders of the day were postponed.

And then the senate adjourned.

WEDNESDAY, NOVEMBER 7, 1821.

The senate assembled.

Mr. Barbee, from the joint committee of enrolments, reported that they had examined two enrolled bills of the following titles, to wit: An act declaring the north fork of Kentucky a navigable stream, and for other purposes; and an act to extend the limits of the town of Morganfield; and had found the same truly enrolled.

A message from the house of representatives, by Mr. Yantis:

Mr. Speaker—The Speaker of the house of representatives having signed two enrolled bills, I am instructed to lay the same before the senate for the signature of their Speaker.

And then he withdrew.

Whereupon the Speaker signed the said bills, being the same reported to-day by Mr. Barbee, and they were delivered to the joint committee of enrolments, to be laid before the governor for his approbation and signature.

And after some time, Mr. Barbee, from the joint committee, reported that they had performed that duty.

The military nominations made on the 4th instant, were taken up; and Mr. Ewing, from the select committee to whom they were referred, made the following report, to wit:

The select committee to whom were referred the nominations of officers of the 108th regiment, made by the governor on the 4th instant, have had the same under consideration, and have come to the following resolutions thereupon, to wit:

Resolved. That the nominations of Denton Darby, as colonel of said regiment, and William Hodge, as major, *ought to be approved*.

Resolved. That the nomination of Nimrod Crim, as lieutenant colonel of the said regiment, *ought not to be approved*.

Which were concurred in.

The nomination of William Macbean, as notary public in and for the county of Fayette, made the 25th October, was taken up.

Resolved. That the senate advise and consent to said appointment.

The military nominations made on the 1st instant, were again taken up.

Resolved. That the senate advise and consent to the appointments of Benjamin I. Thornton, lieutenant colonel of the 47th regiment; William Hamilton, major of the same regiment; and Andrew W. Knox, major of the 43d regiment.

Ordered. That Messrs. Ewing, Slaughter and M'Affee inform the governor thereof.

A message from the house of representatives, by Mr. Warfield:

Mr. Speaker—The house of representatives have passed a bill entitled "an act to authorise the editors of the Republican Orbit, a newspaper printed in Cynthiana, to insert certain advertisements;" in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Cravens:

Mr. Speaker—The house of representatives have passed a bill entitled "an act to establish election precincts in certain counties;" in which they request the concurrence of the senate.

And then he withdrew.

The following bills were reported from the several committees appointed to prepare and bring in the same, to wit:

By Mr. Given—A bill for the benefit of the heirs of Patrick H. Rice.

And by Mr. M'Affee—A bill to amend the law establishing a library at the seat of government.

Which were severally read the first time and ordered to be read a second time.

The following bills were reported from the several committees to whom they were referred, to wit:

By Mr. Owens, from the committee for courts of justice—A bill for the benefit of William Starling, jun. late keeper of the penitentiary.

By Mr. J. L. Hickman—A bill to prevent horse racing on the public highways.

And by Mr. Ward—A bill to revive the act providing for the appointment of commonwealth's attorneys.

Severally with amendments; those to the two former were concurred in and the bills ordered to be engrossed and read a

third time. The latter was re committed to the same committee, and Mr. Flournoy was added thereto.

On the motion of Mr. Lackey, leave was given to bring in a bill to legalize the proceedings of the Floyd county court; and Messrs. Lackey, Ward and Gorin were appointed a committee to prepare and bring in the same.

The senate received from the governor, by Mr. Anderson, a message in writing, containing a military nomination. The rule being dispensed with, it was taken up and read as follows, to wit:

Gentlemen of the Senate,

I nominate for your advice and consent the following gentleman, to be commissioned during good behaviour, viz: William Hodge, lieutenant colonel of the 108th regiment, in the place of Nimrod Crim, rejected.

JOHN ADAIR.

November 7th, 1821.

Resolved, That the senate advise and consent to said appointment.

Ordered, That Messrs. Ewing and Slaughter inform the governor thereof.

The senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Barbee in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Barbee reported, that they had, according to order, resumed the consideration of a bill providing for a sale of the public lands south and west of the Tennessee river, and made some further progress therein; but not having time to go through the same, had instructed him to ask for leave to sit again.

Which being granted accordingly, the orders of the day were further postponed.

And then the senate adjourned.

THURSDAY, NOVEMBER 8, 1821,

The senate assembled.

The nominations in the civil department, made on the 1st instant, were taken up.

Resolved, That the senate advise and consent to the appointments, agreeably to said nominations, except that of Benjamin Monroe, attorney for the commonwealth in the 8th judicial district, which was laid on the table.

The nominations in the military department, made on the 1st instant, were again taken up.

Resolved, That the senate advise and consent to the appointment of John Whiles, as major of the 44th regiment.

Ordered, That Messrs. Pope and Pickett inform the governor thereof.

Mr. Carneal presented the remonstrance of sundry citizens of Campbell county, against the removal of their seat of justice; which was referred to the committee of propositions and grievances.

On the motion of Mr. M'Afee, leave was given to bring in a bill for the benefit of Peter Watts and the heirs of John Curd; and Messrs. M'Afee, Williams and Bowman were appointed a committee to prepare and bring it in.

Mr. Montjoy, from the committee appointed for that purpose, reported a bill for the benefit of Polly Parker and children; which was read the first time.

The rule being dispensed with, it was read a second time and ordered to be engrossed and read a third time.

On motion, leave of absence from the service of the senate was granted to Mr. Perrin, until Wednesday next; and to Mr. Jones, until Monday next.

A bill to establish counties on the south and west of Tennessee river, and a bill declaring the power of county courts relative to opening roads, were severally read a second time.

The former was committed to a committee of the whole house on the state of the commonwealth, and the latter ordered to be engrossed and read a third time.

Ordered, That the public printers forthwith print 150 copies of the former bill, for the use of the members of the senate.

And then the senate adjourned.

FRIDAY, NOVEMBER 9, 1821.

The senate assembled.

Mr. Williams presented the petition of sundry citizens of Bourbon county, praying to be added to Montgomery county; which was read and referred to the committee of propositions and grievances.

Mr. Owens, from the select committee to whom was referred so much of the governor's message as relates to a revision of the statute laws, reported a bill to encourage the

publication of a Digest of the statutes; which was read the first time and ordered to be read a second time.

Leave was given to bring in the following bills, to wit:

On the motion of Mr. Dawson—A bill for the benefit of Hardy Witherspoon.

And on the motion of Mr. Carneal—A bill to increase the salaries of the treasurer and auditor.

Messrs. Dawson, M'Afee and Pickett were appointed a committee to prepare and bring in the former; and messrs. Carneal, Given and White, the latter.

Ordered, That Mr. Davidson have leave of absence from the service of the senate, until Wednesday next.

Mr. White read and laid on the table a preamble and resolutions, instructing the members in congress from Kentucky, to propose certain amendments to the federal constitution.

And then the senate adjourned.

SATURDAY, NOVEMBER 10, 1821.

The senate assembled.

The lieutenant governor being absent, Mr. R. Hickman was unanimously elected speaker for the occasion.

Mr. Williams presented the petition of John Lee and James Montgomery, praying that a law may be passed authorizing them to change a part of the road leading from Mountsterling to the Virginia line.

Mr. Bowmar presented the petition of William M'Bride, praying that a law may be passed authorizing him to locate certain land warrants south of Walker's line and east of the Tennessee river.

Mr. Lackey presented the petition of sundry citizens of the counties of Nicholas, Montgomery, Bath and Bourbon, praying the formation of a new county out of a part of each.

Mr. Ward presented the petition of sundry citizens of the counties of Floyd and Greenup, praying the erection of a new county out of parts of each.

Which were severally read and referred; the first, third and fourth to the committee of propositions and grievances, and the second to the committee for courts of justice.

The following bills were reported from the several committees appointed to prepare and bring in the same, to wit:

By Mr. Lackey—A bill to legalize the proceedings of the Floyd county court.

By Mr. Dawson—A bill for the benefit of Hardy Wither-
spoon.

And leave was given Mr. Owens to report a bill author-
ising the keeper of the penitentiary to build a smoke house.

Which were severally read the first time and ordered to
be read a second time.

The rule being dispensed with, the first and third were
read a second time and ordered to be engrossed and read a
third time. And the third bill, having been engrossed, was
read a third time.

Resolved, That the said bill do pass, and that the title be
“an act authorising the keeper of the penitentiary to build
a smoke-house.”

Ordered, That Mr. Owens do carry said bill to the house
of representatives and request their concurrence.

The following bills were reported from the select com-
mittees to whom they were referred, to wit:

By Mr. Flournoy—A bill to amend and explain the pe-
nal laws, as respects the trial and punishment of slaves.

And by Mr. Marshall—A bill concerning executions.

Severally with amendments, which were concurred in.

The former was ordered to be engrossed and read a third
time, and the latter laid on the table.

Ordered, That the public printers forthwith print 150
copies of the latter bill, for the use of the members of the
legislature.

And then the senate adjourned.

MONDAY, NOVEMBER 12, 1821.

The senate assembled.

Mr. William R. Weir, the senator from the counties of
Hopkins, Henderson and Union, appeared and took his
seat.

Mr. Carneal presented petitions from sundry inhabitants
of the county of Campbell, praying for the removal of the
seat of justice of said county; which were received and re-
ferred to the committee of propositions and grievances.

Mr. M'Afee, from the committee appointed, presented a
bill for the benefit of Peter Watts and John Curd's heirs;
which was received and read the first time and ordered to
be read a second time.

Mr. Ewing read and laid on the table the following reso-
lution, viz.

Resolved by the General Assembly of the Commonwealth of Kentucky, that the president and directors of the Commonwealth's Bank be, and they are hereby directed to issue the balance of the three millions of dollars remaining on hand, as soon as practicable.

The resolution proposed and laid on the table on Friday last, by Mr. White, suggesting an amendment to the constitution of the United States, was taken up, read and committed to the committee of the whole house on the state of the commonwealth.

Ordered, That the public printers forthwith print 150 copies of the said resolution, for the use of the legislature.

Mr. Samuel Carpenter, the senator returned from the district of Nelson, in the room of Samuel M'Lean, Esq. resigned, appeared, produced his credentials and took his seat.

The following bills were severally read the second time, to wit: 1. A bill for the benefit of Hardy Witherspoon; 2. a bill to amend an act providing a summary mode of recovering debts; 3. a bill allowing jailers fees in certain cases; 4. a bill to amend the law establishing a library at the seat of government; 5. a bill for the benefit of the heirs of Patrick H. Rice, deceased; 6. a bill to encourage the publication of a Digest of the Statutes.

The first and fourth were ordered to be engrossed and read a third time; the second was committed to a committee of the whole house on the state of the commonwealth; the third, to messrs. J. L. Hickman, M'Affee and Worthington; the fifth, to the committee for courts of justice; and the sixth, to the committee who prepared and presented the same.

Engrossed bills of the following titles were severally read the third time, and the blanks filled up where they occurred, to wit: 1. An act to amend an act entitled "an act to amend the act directing certain surveyors to transcribe certain entry books;" 2. an act to prevent horse-racing on the public highways; 3. an act for the benefit of Polly Parker and children; 4. an act to legalize the proceedings of the Floyd county court; 5. an act to amend the law concerning constables; 6. an act for the benefit of William Starling, jun. late keeper of the penitentiary; 7. an act to amend and explain the penal laws, as respects the trial and punishment of slaves; 8. an act declaring the power of county courts relative to opening roads.

Resolved, That the first, second, third and fourth bills pass, and that the titles be, respectively, "an act to amend an act entitled an act to amend the act directing certain surveyors to transcribe certain entry books; an act to prevent horse-racing on the public highways; an act for the benefit of Polly Parker and children; and an act to legalize the proceedings of the Floyd county court."

Ordered, That the clerk carry the said bills to the house of representatives and request their concurrence.

The fifth was committed to messrs. Beauchamp, White, Pope and Ward; the sixth was ordered to lie on the table until Monday; the seventh was committed to messrs. Beauchamp, Owens and Flournoy; and the question being taken on the passage of the eighth, it was resolved in the negative, and so the said bill was rejected.

And then the senate adjourned.

TUESDAY, NOVEMBER 13, 1821.

The senate assembled.

The lieutenant governor appeared and resumed the duties of the chair.

The senate again took up the nominations in the civil department, made on the 1st inst.

Resolved, That the senate advise and consent, unanimously, to the appointment of Benjamin Monroe, commonwealth's attorney in and for the 8th judicial district.

Ordered, That messrs. Gorin and Lackey inform the governor thereof.

Ordered, That messrs. Williams and Ward be added to the select committee to whom was referred the nomination of Samuel Sawyers, as colonel of the 103d regiment.

Mr. Lackey, from the joint committee appointed to examine and report the state of the register's office, made the following report, to wit:

The joint committee of the senate and house of representatives, appointed to examine and report the state of the land-office, have performed the duty required, and report as follows:

That they find, transmitted from the Virginia land-office, 273 bundles of surveys, neatly labelled, with an alphabet; also, 15 bundles containing the caveated and defective surveys on which grants have issued; 5 bundles caveated surveys, 2 bundles defective surveys and 1 bundle surveys

misplaced from their proper bundles—all neatly labelled and recorded in 11 volumes, well bound, with a complete alphabet; 2 bundles of warrants located and misplaced, 1 bundle of wills, 16 volumes, the record of grants issued on the aforesaid surveys, in good order, with a complete alphabet. The record of military warrants from the Virginia land office, in 2 volumes, with alphabets and in good order; a list of the Virginia treasury warrants, in 2 volumes; the record of pre-emption warrants, in 1 volume, and a volume containing the record of warrants under the proclamation of 1763, with alphabets and in good order. Commissioners' certificates granted in 1779 and '80, in 2 volumes, with alphabets, in good order. The sale books of non-residents' lands for the years 1800-1-2 and 4, have a new alphabet—the books are somewhat worn; the books in which the sales of 1805-6-7-8-9-10-11-12-13-14-15-16-17-18-19 and 20 are recorded, they find in good order, with alphabets. Two volumes in which surveys have been registered since 1792, in good order—the said surveys are tied up in 141 bundles, neatly labelled, with an alphabet; the record of those surveys, together with the record of some grants, are in 10 volumes, with an alphabet, in good order; the grants issued on the aforesaid surveys are in 19 volumes, to which there is an alphabet in good order. The surveys upon head right claims are neatly registered in 3 volumes, with two alphabets, one of which is somewhat worn; the head right plats and certificates of surveys, are filed in 300 bundles, neatly labelled, and recorded in 17 volumes, with two alphabets, new and in good order; the grants issued thereon, recorded in 26 volumes, well bound, with two alphabets in good order. The land warrants issued under the act of 1800, the surveys and grants on the same, as also the Tellico surveys and grants, are in 2 volumes—they are registered in 1 volume; the original surveys tied up in bundles and neatly labelled, all in good order. Nine bundles certificates on which warrants have issued, 7 bundles certificates of sale of non residents' lands on which deeds have issued, 1 bundle attorney general's opinions to the register, 5 bundles county court certificates, 8 bundles caveats since 1792, 4 bundles caveated surveys since 1792, 2 bundles surveys not registered for want of fees since 1792, 1 bundle defective surveys since 1792, 16 bundles vouchers on which the late Kentucky land warrants have issued, all neatly labelled and in good order. One volume containing the surveys under the pro-

clamation of 1763, with an alphabet; 2 volumes of certificates granted in 1796, and 3 volumes in 1798, with alphabets; Anderson's and Croghan's military entry books, with alphabets; the transcript of Lincoln entries, in 2 volumes, with an alphabet, in good order; May's entry (so called) transcribed in 5 volumes, with two alphabets, in good order; 1 volume of Green's deputy register of surveys made previous to June 1792; 1 volume of relinquishments, in tolerable order; a list of Kentucky land warrants issued under the act of 1814, and the subsequent acts, in 1 volume, and the record of said warrants in 4 volumes; the original surveys made on said warrants are tied up in 93 bundles, neatly labelled, and recorded in 6 volumes, well bound—the grants issued thereon, recorded in 8 volumes, well bound, with an alphabet in good order; 2 volumes registers of said surveys, with an alphabet, in good order; 3 volumes in which caveats are recorded, with alphabets; 1 volume of commissioners' certificates granted in the year 1780, with an alphabet.

Your committee beg leave to state, that 11 books of original entries from the county of Fayette, 1 book of original entries from the county of Mercer, 1 from Bourbon and 1 from Nelson, have been returned by the surveyors of said counties to the register's office, agreeably to the requisitions of an act approved February 2th, 1820; which books aforesaid your committee find considerably worn and mutilated, and submit to the house the propriety of some act of the legislature, directing the register to copy such parts of said books as it may be practicable.

All which is most respectfully submitted.

ALEXANDER LACKEY,	}	<i>Senate.</i>
N. D. ANDERSON,		
WM. MOUNTJOY,	}	<i>House of Rep's.</i>
JOHNSON J. COCKRILL,		
JAMES PATTERSON,		
COLBY H. TAYLOR,		
LEE WHITE,		
SAMUEL S. BROOKING,		
JAMES M'CONNELL,		
HUGH WILEY,		

The bill to amend the law concerning executions, was taken up and committed to a committee of the whole house on the state of the commonwealth, for Thursday next.

A message from the house of representatives, by MR. Clark:

Mr. Speaker—The house of representatives have adopted resolutions in relation to the conduct which ought to be observed by judges on certain occasions; in which they request the concurrence of the senate.

And then he withdrew.

The said resolutions were then read as follows, to wit:

IN THE HOUSE OF REPRESENTATIVES, NOV. 12, 1821.

Resolved by the Senate and House of Representatives, That no judge ought to sit in and determine a cause between a corporation of which he is a member and has therein an interest, and any other party.

Resolved by the Senate and House of Representatives, That no judge of the court of appeals ought to sit in a cause which he has decided below.

Resolved by the Senate and House of Representatives, That no judge of the court of appeals ought to interfere in the management of causes below, except in cases wherein his own individual interest is involved.

Resolved by the Senate and House of Representatives, That in criminal cases the jury have a right to judge as well of the law as the fact.

Extract, &c.

R. S. TODD, C. H. R.

The military nominations made on the 1st instant were again taken up.

Resolved, That the senate advise and consent to the appointments of Thomas T. Bush, colonel of the 17th regiment; Thomas C. Green, lieutenant colonel of the same regiment; Barnett Parrish, sen. major of the same regiment; Absalom Oldham, lieutenant colonel of the 78th regiment; and Ebenezer Park, major of the same regiment.

Ordered, That messrs. Williams and Hickman inform the governor thereof.

The nominations of Michael Flinn, as lieutenant colonel of the 36th regiment, and Edward Young, major of the same regiment, made on the same day, were committed to messrs. Mountjoy, Perrin, Fauikner, Williams and Ward.

Mr. White, from the majority in a vote on yesterday, whereby an engrossed bill declaring the power of the county courts in relation to roads, was rejected, moved to reconsider the vote; which was re-considered, and the bill committed to messrs. White, Ward and Flournoy.

Leave was given to bring in the following bills, to wit:

On the motion of Mr. Owens—A bill to amend an act entitled "an act appointing persons to view a way for a road from Danville to the Tennessee line."

On the motion of Mr. Ward—A bill declaring the power of the county courts in laying their levies.

And on the motion of Mr. Crutcher—A bill to amend the charter of the Bank of the Commonwealth.

Messrs. Owens, M'Afee and Gorin were appointed a committee to prepare and bring in the first, (to whom a certain survey in relation thereto was also referred;) Messrs. Ward, Williams and White, the second; and Messrs. Crutcher, Pope and Beauchamp, the third.

Mr. Ward, from the second committee, reported a bill, which was read the first time and ordered to be read a second time.

The senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Crutcher in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Crutcher reported, that they had, according to order, resumed the consideration of a bill providing for the sale of the vacant lands west of the Tennessee river, and had gone through the same with amendments, which he handed in at the clerk's table.

And then the senate adjourned.

WEDNESDAY, NOVEMBER 14, 1821.

The senate assembled.

Mr. Marshall presented the petition of Samuel Lewis, praying that a law may be passed authorising a commissioner to convey certain lands of which the late Francis Peart died possessed; which was read and referred to the committee for courts of justice.

The following bills were reported from the several committees to whom they were referred, to wit:

By Mr. Roper, from the committee for courts of justice—A bill for the benefit of the heirs of Patrick H. Rice.

By Mr. White—A bill declaring the power of the county courts in relation to opening roads.

And by Mr. Beauchamp—A bill to amend the law concerning the trial of slaves.

Severally with amendments; those to the two former were concurred in, and the bills ordered to be engrossed and read a third time. The latter bill, with the amend-

ments, was committed to Messrs. Perrin, Owens, Beauchamp and Flournoy.

The following bills were reported from the several committees appointed to prepare and bring in the same, to wit:

By Mr. Beauchamp—A bill to amend the act regulating divorces, approved January 31, 1809.

And by Mr. Bowmar—A bill for the benefit of Luke Munsell.

Which were severally read the first time and ordered to be read a second time.

The senate received from the governor, by Mr. Anderson, a message in writing, containing certain military nominations; which, according to the rule, was laid on the table.

The senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Gorin in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Gorin reported, that the committee had, according to order, had under consideration the following bills, to wit: A bill to restrain the sending away of slaves and servants to other states as merchandize; and a bill from the house of representatives, entitled "an act to repeal in part an act entitled an act more effectually to suppress the practice of duelling;" and had gone through the same with amendments to each, which he handed in at the clerk's table.

The question being taken on reading the said bills a third time as amended, it was resolved in the negative; and so the said bills were rejected.

Ordered, That the clerk inform the house of representatives as to the latter bill.

Mr. Owens, from the select committee to whom was referred a bill to encourage the publication of a Digest of the Statutes, reported the same with amendments, which were concurred in and the bill ordered to be engrossed and read a third time.

And then the senate adjourned.

THURSDAY, NOVEMBER 15, 1821.

The senate assembled.

The resolution directing the president and directors of the Bank of the Commonwealth of Kentucky to issue the balance of the three millions of dollars, was taken up; and Mr Jones moved to amend the resolution to read thus: "That they be, and are hereby directed not to issue the balance of the three millions of dollars remaining on hand;" and gave notice that he should call for the yeas and nays, when the question should be taken.

The said resolution, together with the said amendment, was then committed to a committee of the whole house on the state of the commonwealth, and made the order of the day for Tuesday next.

A message from the house of representatives, by Mr. Payre:

Mr. Speaker—The house of representatives have passed a bill entitled "an act for the divorce of William Spangler and Samuel Campbell;" in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Murray:

Mr. Speaker—The house of representatives have passed a bill entitled "an act authorising Richard L. Walker and Nathan Harris to erect a mill-dam across Rough creek, in Ohio county;" in which they request the concurrence of the senate.

And then he withdrew.

On motion,

Ordered, That the governor's message, made on the 7th instant, enveloping various public documents and official communications, be published as an Appendix to the Journal of the present session.

The senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Jones in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Jones reported, that the committee had, according to order, taken under consideration a bill to amend the law concerning executions, and had gone through the same with several amendments, which he handed in at the clerk's table, where they were read and agreed to.

And then the senate adjourned.

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FRIDAY, NOVEMBER 16, 1821.

The senate assembled.

A message from the house of representatives, by Mr. Wickliffe:

Mr. Speaker—The house of representatives have passed a bill entitled “an act concerning the county court of Nelson;” in which they request the concurrence of the senate.

And then he withdrew.

The said bill was read the first time; and the rule being dispensed with, it was read a second and third time.

Resolved, That the said bill do pass, and that Mr. Carpenter inform the house of representatives thereof.

A message from the house of representatives, by Mr. Bradford:

Mr. Speaker—The house of representatives have passed a bill entitled “an act to authorise the appointment of an additional number of constables in certain counties;” in which they request the concurrence of the senate.

And then he withdrew.

Mr. Ewing read and laid on the table a resolution fixing a day for the election of presidents and directors of the Bank of Kentucky, and the Bank of the Commonwealth and its branches; also a treasurer and public printer.

Mr. Beauchamp, from the select committee to whom was referred a bill to amend the law concerning constables, reported the same with amendments.

Mr. Pope moved to strike out the following amendment: “That so much of all laws giving to sheriffs and constables half commission for taking replevin bonds, shall be, and the same are hereby repealed;” and the question being taken thereon, it was resolved in the affirmative—Yeas 27, nays 3.

The yeas and nays being required thereon by messrs. Beauchamp and Throckmorton, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Barbee, Bowmar, Carpenter, Crutcher, Davidson, Ewing, Faulkner, Flournoy, Ford, Given, J. L. Hickman, Jones, Lackey, Marshall, M’Afee, Perrin, Pickett, Pope, Roper, Slaughter, Smith, Throckmorton, Ward, Weir, White, Williams and Worthington.

Those who voted in the negative, are messrs. Beauchamp, Dawson and Gorin.

The other amendments were concurred in, and the bill, as amended, ordered to be re-engrossed and read again.

The military nominations made on the 1st instant were again taken up.

Resolved, That the senate advise and consent to the following appointments: James Ballard, colonel of the 2d regiment; Joseph Gregg, lieutenant colonel of the same regiment; Peter Swets, major of the same regiment; William Olds, lieutenant colonel of the 9th regiment; Joel Turnham, major of the same regiment; John Young, lieutenant colonel of the 27th regiment; James Allen, major of the same regiment; Peter Brown, colonel of the 4th regiment; John Purdy, lieutenant colonel of the same regiment; John Ceissel, major of the same regiment; George Roberts, brigade quartermaster of the 8th brigade.

The senate then took up the nominations made on the 13th inst. which were read as follows, to wit:

Gentlemen of the Senate,

I nominate for your advice and consent, the following gentlemen, to be commissioned during good behaviour, viz.

Thomas R. Magee, division quartermaster of the 10th division, in the place of — —, to take rank from 3d April 1821.

Edward Burgess, lieutenant colonel of the 98th regiment, in the place of Nathaniel Auxer, resigned, to take rank from the 12th day of June 1821.

William Remy, major of the same regiment, in the place of Edward Burgess, if promoted, to take rank from the 12th day of June 1821.

John M. M'Connell, lieutenant colonel of the 70th regiment, in the place of Samuel W. Gammon, resigned, to take rank from the same date.

Nathaniel Dawson, major of the same regiment, in the place of John M. M'Connell, if promoted, to take rank from the same date.

David Gibson, lieutenant colonel of the 51st regiment, in the place of William Sale, stricken off into another regiment, to take rank from the 20th of June 1821.

Thomas Easturday, major of the same regiment, in the place of David Gibson, if promoted, to take rank from the 20th June 1821.

James F. Mitcherson, colonel of the 107th regiment, lately formed, to take rank from the 15th of March 1821.

Samuel Baker, lieutenant colonel of the same regiment, to take rank from the same date.

Vincent Snelling, major of the same regiment, to take rank from the same date.

JOHN ADAIR.

November 13th, 1821.

Resolved, That the senate advise and consent to said appointments, except the five latter, which were laid on the table.

The senate received from the governor, by Mr. Anderson, a message in writing, containing certain military nominations. The rule being dispensed with, it was taken up and read as follows, to wit:

Gentlemen of the Senate,

I nominate for your advice and consent, the following gentlemen, to be commissioned during good behaviour, viz.

Thomas Metcalfe, major general of the 10th division, in the place of William E. Boswell, resigned.

Jehu Rice, brigade major of the 14th brigade, in the place of John R. Chitwood, deceased.

JOHN ADAIR.

November 16th, 1821.

Resolved, That the senate advise and consent to the said appointments.

Ordered, That messrs. Ward and Carpenter inform the governor thereof.

Mr. Barbee, from the joint committee of enrolments, reported that they had examined an enrolled bill entitled "an act concerning the Nelson county court," and had found the same truly enrolled.

A message from the house of representatives, by Mr. Crawford:

Mr. Speaker—The Speaker of the house of representatives having signed an enrolled bill, I am instructed to lay the same before the senate for the signature of their Speaker.

And then he withdrew.

Whereupon the Speaker signed said bill, being the same reported to-day by Mr. Barbee, and it was delivered to the joint committee, to be laid before the governor for his approbation and signature.

And after some time, Mr. Barbee reported that they had performed that duty.

The following bills were reported from the select committees to whom they were referred, to wit:

By Mr. Perrin—A bill to amend and explain the penal laws, as respects the trial and punishment of slaves.

And by Mr. Ward—A bill to revive the act providing for the appointment of commonwealth's attorneys.

The former with amendments, which were concurred in with amendments, and the bill ordered to be engrossed and read a third time as amended.

A message from the house of representatives, by Mr. Cockerill :

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled "an act to exempt certain persons from working on highways," with an amendment, in which they request the concurrence of the senate.

And then he withdrew.

The bill and amendment were laid on the table until the first day of March next.

A bill to amend the law concerning executions, was committed to messrs. Pope, Roper, Flournoy, Carpenter, Ward, Bowmar and M'Alce.

A message from the house of representatives, by Mr. Yancey :

Mr. Speaker—The house of representatives have passed bills of the following titles, to wit: An act for the benefit of Polly Simpson and her children, and an act for the benefit of the widow and heirs of Turner Morehead, deceased; in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Slack :

Mr. Speaker—The house of representatives have passed a bill entitled "an act for the benefit of the heirs of Roger Robbins, deceased;" in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Warfield :

Mr. Speaker—The house of representatives have passed a bill entitled "an act authorising and directing the county court of Bourbon to open and keep in repair a certain road;" in which they request the concurrence of the senate.

And then he withdrew.

A bill for the benefit of the Robertson Academy, and a bill providing for a sale of the vacant land west of the Tennessee river, were laid on the table.

Bills from the house of representatives, of the following titles, to wit: An act to authorise the editors of the Republican Orbit, a newspaper printed in Cynthiana, to insert

certain advertisements; an act establishing election precincts in certain counties; an act for the benefit of Solomon Griffin and the heirs of Catherine Smith; and an act to amend the several acts taxing billiard tables, and for other purposes; were severally read the first time and ordered to be read a second time.

The rule being dispensed with, the first and second bills were read a second time, and the first a third time.

Resolved, That the first bill pass, and that the clerk inform the house of representatives thereof.

The second was committed to messrs. Perrin, Ewing and Lackey.

The resolutions from the house of representatives, in relation to the conduct which ought to be observed by judges on certain occasions, were taken up, read and committed to a committee of the whole house on the state of the commonwealth.

A bill for the benefit of keepers of turnpike gates, was taken up and ordered to be engrossed and read a third time.

A message from the house of representatives, by Mr. Cosby:

Mr. Speaker—The house of representatives have passed a bill entitled "an act to authorise the insertion of certain advertisements in the Kentucky Patriot and Springfield Literary Register;" in which they request the concurrence of the senate.

And then he withdrew.

And then the senate adjourned.

SATURDAY, NOVEMBER 17, 1821.

The senate assembled.

The lieutenant governor being absent, Mr. R. Hickman was unanimously elected speaker for the occasion.

A message from the house of representatives, by Mr. Cosby:

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled "an act to amend the act reserving certain property from execution;" and they have passed bills of the following titles, to wit: An act to amend the laws regulating attachments; an act for the benefit of the sheriff of Monroe county; an act for the relief of Nancy Garth; an act declaring Big Barren river further navigable; an act to amend an act entitled "an act to establish

the county of Perry ;" an act for the benefit of Ansel Wilhoit ; and an act concerning the seminaries in the counties of Monroe, Perry, Jefferson and Simpson ; in which they request the concurrence of the senate.

And then he withdrew.

On the motion of Mr. Carpenter, leave was given to bring in a bill to revive the laws against champerty and maintenance ; and messrs. Carpenter, Ewing and Davidson were appointed a committee to prepare and bring it in.

Bills from the house of representatives, of the following titles, to wit : An act for the benefit of the widow and heirs of Turner Morehead, deceased ; and an act to authorise the appointment of an additional number of constables in certain counties ; were severally read the first time and ordered to be read a second time.

A message from the house of representatives, by Mr. Howard :

Mr. Speaker—The house of representatives have passed a bill entitled "an act for the benefit of the heirs of David C. Irvine, deceased ;" in which they request the concurrence of the senate.

And then he withdrew.

The bill was read the first time ; and the rule being dispensed with, it was read a second time, amended at the clerk's table and read a third time.

Resolved, That the said bill, as amended, do pass and that the clerk inform the house of representatives thereof and request their concurrence in the amendment.

A bill for the benefit of Peter Watts and the heirs of John Curd ; a bill to amend the law concerning divorces, and a bill declaring the power of county courts in laying their levies, were severally read a second time.

The first was committed to the committee for courts of justice ; the second, to messrs. M'Allee, White, Beauchamp and Given ; and the third, to messrs. Crutcher, Beauchamp and Owens.

Mr. Perrin, from the select committee to whom was referred a bill from the house of representatives, entitled "an act to establish election precincts in certain counties," reported the same with amendments, which were concurred in, and the bill was read a third time.

Resolved, That the said bill, as amended, do pass, and that the clerk inform the house of representatives thereof and request their concurrence in the amendments.

A bill to revive the act providing for the appointment of commonwealth's attorneys, was taken up, and Mr. Ward offered the following amendment in lieu of the bill, after the enacting clause, to wit:

"That there shall be appointed by the governor of this commonwealth, by and with the advice and consent of the senate, a proper person, resident within the bounds of each judicial district in this commonwealth, who shall continue in office during good behaviour, and attend the several circuit courts within his district, and prosecute all pleas of the commonwealth arising therein; and shall annually receive for their services the sum of four hundred dollars per annum, to be paid quarterly out of the public treasury, upon a warrant from the auditor, as in other cases.

"That it shall be the duty of the several circuit courts in this commonwealth, if the district attorney shall fail to attend any circuit court within his district, to appoint *pro tem.* some fit attorney to prosecute for the commonwealth during the absence of such district attorney; and such circuit court shall certify in whose room such services were rendered, and the amount of allowance, and what deduction is to be made from the annual salary of such absent attorney; and the attorney *pro tem.* may produce to the auditor, at any time before the annual salary of such attorney shall become due, such certificate of the court as aforesaid, and the auditor shall issue to the holder of such certificate, upon the delivery thereof, a warrant upon the treasury for such amount, which shall be paid accordingly; and the auditor shall note such deduction, and when application is made for the annual salary of such absent attorney, the auditor shall only issue a warrant for the amount of the sum remaining, after deducting the sum certified by the court as aforesaid. The annual salary of the attorneys appointed under this act, shall commence from the time of their acceptance of said office.

"This act shall take effect from and after the first day of March next, and continue in force for the term of two years thereafter."

And the question being taken thereon, it was resolved in the negative—Yeas 11, nays 19.

The yeas and nays being required thereon by Messrs. Ward and Throckmorton, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Barbee, Beauchamp, J. L. Hickman, Jones, Lackey, M'Afee, Owens, Perrin, Ward, White and Worthington.

Those who voted in the negative, are, Messrs. Anderson, Bowmar, Carpenter, Crutcher, Davidson, Dawson, Ewing, Faulkner, Given, Gorin, R. Hickman, Marshall, Pickett, Pope, Roper, Slaughter, Throckmorton, Weir and Williams.

The bill was amended at the clerk's table, and ordered to be engrossed and read a third time.

A bill from the house of representatives, entitled "an act to alter the mode of admitting persons to bail under writs of *habeas corpus*, was taken up.

Resolved, That the said bill do pass, and that Mr. Anderson inform the house of representatives thereof.

Mr. Roper, from the committee for courts of justice, to whom was referred the petition of Samuel Lewis, reported a bill authorising William B. Blackburn to convey to Samuel Lewis a tract of land in the counties of Woodford and Scott; which was read the first time.

The rule being dispensed with, it was read the second time and ordered to be engrossed and read a third time.

Engrossed bills, to wit: A bill for the benefit of Hardy Witherspoon, and a bill to amend the law establishing a library at the seat of government, were severally read a third time.

Resolved, That the former bill pass, and that the title be "an act for the benefit of Hardy Witherspoon."

Ordered, That Mr. Dawson carry said bill to the house of representatives and request their concurrence.

The latter bill was laid on the table.

Leave was given Mr. Davidson to report a bill to amend an act establishing a seminary in Rockcastle county; which was read the first time.

The rule being dispensed with, it was read a second and third time (having been engrossed.)

Resolved, That the said bill do pass, and that the title be "an act to amend an act establishing a seminary in Rockcastle county."

Ordered, That the clerk do carry said bill to the house of representatives and request their concurrence.

And then the senate adjourned.

MONDAY, NOVEMBER 19, 1821.

The senate assembled.

Mr. Ward presented the petition of the widow and administrators of John R. Chitwood, deceased, praying that a law may be passed authorising them to sell his real estate, for the payment of his debts; which was read and referred to messrs. Ward, Ballinger, Barbee and Roper, with leave to report by bill or otherwise.

Engrossed bills, to wit: 1. A bill for the benefit of the heirs of Patrick H. Rice; 2. a bill for the benefit of the keepers of turnpike gates; 3. a bill for the benefit of Samuel Lewis; 4. a bill to revive and continue in force the act providing for the appointment of commonwealth's attorneys; 5. a bill declaring the powers of the county courts relative to opening roads; 6. a bill to encourage the publication of a Digest of the Statutes; 7. a bill to amend the law concerning constables; were severally read a third time.

Resolved, That the first, second, third and fourth bills do pass, and that the titles be, respectively, "an act for the benefit of the heirs of Patrick H. Rice; an act authorising the keepers of turnpike gates to take up strays; an act for the benefit of Samuel Lewis," and "an act to revive and continue in force the act providing for the appointment of commonwealth's attorneys."

Ordered, That the clerk do carry said bills to the house of representatives and request their concurrence.

The fifth was committed to messrs. Faulkner, Ward and Ferrin; the sixth, to messrs. Marshall, White and Roper; and the seventh, to messrs. Beauchamp, Marshall and White.

A message from the house of representatives, by Mr. Howard:

Mr. Speaker—The house of representatives have received official information that the governor did, on the 17th inst. approve and sign an enrolled bill which originated in that house, of the following title, to wit: An act concerning the county court of Nelson.

They have passed bills of the following titles, to wit: "An act to amend the several acts concerning the town of Louisville; an act appointing trustees for the town of Boonsborough, and for other purposes; and an act to establish the line lately run between the states of Tennessee and Kentucky;" in which they request the concurrence of the senate.

And then he withdrew.

Which bills were severally read the first time ; and the rule being dispensed with, they were severally read a second and third time.

Resolved, That the said bills do pass, and that the clerk inform the house of representatives thereof.

Bills from the house of representatives, of the following titles, to wit : An act for the benefit of Solomon Griffin and the heirs of Catherine Smith ; an act for the benefit of the widow and heirs of Turner Morehead, deceased ; an act to amend the several acts taxing billiard tables, and for other purposes ; and an act to authorise the appointment of an additional number of constables in certain counties ; were severally read a second time, and the first and second amended at the clerk's table.

The rule being dispensed with, the first and second bills were read a third time as amended.

Resolved, That the said bills, as amended, do pass, and that the title of the second be amended to read, " an act for the benefit of the heirs of Turner Morehead and Lawrence Owen."

Ordered, That Mr. Dawson do carry said bills to the house of representatives and request their concurrence in the amendments.

The third bill was committed to Messrs. Beauchamp, Owens and White, and the fourth to Messrs. Beauchamp, Marshall and White.

Bills from the house of representatives, of the following titles, to wit : 1. An act for the benefit of Polly Simpson and her children ; 2. an act authorising Richard L. Walker and Nathan Harris to erect a mill-dam across Rough creek, in Ohio county ; 3. an act authorising and directing the county court of Bourbon to open and keep in repair a certain road ; 4. an act for the benefit of the heirs of Roger Robins, deceased ; 5. an act for the benefit of the sheriff of Monroe county ; 6. an act to amend the laws regulating attachments ; 7. an act to amend an act entitled " an act to establish the county of Perry ;" 8. an act for the benefit of Ansel Wilhoit ; 9. an act to authorise the insertion of certain advertisements in the Kentucky Patriot and Springfield Literary Register ; 10. an act concerning the seminaries in the counties of Monroe, Perry, Jefferson and Simpson ; 11. an act for the divorce of William Spangler and Samuel Campbell ; 12. an act for the relief of Nancy Garth ; and 13. an act declaring Big Barren river further navigable ; were severally read the first time and ordered to be read a second time.

The rule being dispensed with, the ten former were read a second and third time, the ninth and tenth having been amended at the clerk's table.

Resolved, That the ten former bills do pass, the ninth and tenth as amended; and that the title of the ninth be amended to read, "an act authorising advertisements to be inserted in certain newspapers."

Ordered, That the clerk inform the house of representatives thereof and request their concurrence in the amendments.

The eleventh bill, having been read a second time, was committed to Messrs. Marshall, Owens and Roper.

Mr. Given read and laid on the table a resolution fixing on the 8th day of December next for an adjournment of the legislature.

Leave was given Mr. Owens to report a bill to amend an act entitled "an act for the benefit of Daniel Trabue and others;" which was read the first time and ordered to be read a second time.

A bill providing for the repairing and improving of the penitentiary, was taken up and committed to Messrs. Jones, Flournoy and Bowmar.

Mr. Anderson moved for leave to bring in a bill to amend the act concerning occupying claimants of land, approved December 20, 1820; and the question being taken on granting the leave, it was resolved in the affirmative—Yeas 16, nays 14.

The yeas and nays being required thereon by Messrs. Crutcher and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Anderson, Barbee, Beauchamp, Bowman, Carpenter, Davidson, Ewing, Faulkner, Flournoy, Given, J. L. Hickman, R. Hickman, Jones, M'Afee, Slaughter and Smith.

Those who voted in the negative, are Messrs. Ballinger, Bowmar, Crutcher, Dawson, Lackey, Marshall, Owens, Perrin, Pickett, Roper, Ward, Weir, White, and Worthington.

Ordered, That Messrs. Anderson, Carpenter, Ewing, Jones, Flournoy and Beauchamp be a committee to prepare and bring in the said bill.

A message from the house of representatives, by Mr. A. Butler:

Mr. Speaker—The house of representatives have passed a bill entitled "an act for the benefit of Elijah Hise and others;" in which they request the concurrence of the senate. And then he withdrew.

A message from the house of representatives, by Mr. Warfield:

Mr. Speaker—The house of representatives concur in the amendments made by the senate to bills of the following titles, to wit: An act to establish election precincts in certain counties; an act for the benefit of the widow and heirs of Turner Morehead, deceased; an act concerning the seminaries in the counties of Monroe, Perry, Jefferson and Simpson; an act for the benefit of the heirs of David C. Irvine, deceased; and an act to authorise the insertion of certain advertisements in the Kentucky Patriot and Springfield Literary Register.

And then he withdrew.

On the motion of Mr. White, leave was given to bring in a bill to amend the act vesting jurisdiction in the circuit courts to authorise the sale of the real estate of infants in certain cases; and Messrs. White, Roper and Ward were appointed a committee to prepare and bring it in.

Mr. Beauchamp, from the select committee to whom was referred a bill to amend the law concerning divorces, reported the same with amendments.

And then the senate adjourned.

TUESDAY, NOVEMBER 20, 1821.

The senate assembled.

The lieutenant governor appeared and resumed the duties of the chair.

Mr. Jones presented the remonstrance of John Poage, against changing the route of the Turnpike and Wilderness Road; which was read and referred to the committee of propositions and grievances.

Mr. White, from the committee to whom was referred so much of the governor's message as relates to education, made the following report, to wit:

The committee on the part of the senate, appointed on so much of the governor's message as relates to education, have had the subject under consideration, and beg leave to report thereon as follows:

It is deemed unnecessary by your committee, to enter into an argument upon the propriety of extending legislative patronage to education, or to shew the intimate connexion of science with civil liberty. Such a course would be nugatory, and perhaps offensive to an enlightened and intelligent

legislature. Your committee will, therefore, content themselves with presenting the abstract principles that have governed other states on similar occasions, and the practicability, in time, of adopting a system in our own country, commensurate with the best wishes of an anxious public.

Your committee have had before them the systems of education adopted by the states of New York and Massachusetts. These systems present such a variety and complexity in their details, that your committee have not been able to extract from these sources any satisfactory plan, suitably adapted to the existing state of things in Kentucky.

In the state of New York, there is set apart from the public fund, annually, the sum of \$80,000, for purposes of education alone. The state is divided by counties and townships, and again subdivided into districts, in each of which a common school is established by law, and a due proportion of the public annual donation is assigned, according to the extent of population: besides which a revenue is raised by taxation of the inhabitants within their respective districts, for the support and maintenance of their schools. Here the poorer class of citizens are taught gratis, and the means of instruction in general brought home to the doors of the people.

In states of a dense population, like those alluded to, this system affords every facility to adequate means of education, without operating oppressively on the community. How far a plan as diffusive in its character, could be beneficially adopted in Kentucky, taking into consideration the deranged state of her finances and dispersed population, is a question of some doubt and uncertainty; yet we think that no plan would more probably succeed, if tested by experience and fostered by the industrious and parental care of the legislature. That some general system of education should be devised, suitable to the present state of the country, wherein the rudiments of ordinary instruction could be procured for the common and poorer classes of our citizens, is a proposition that no one will deny; and it is equally clear, that at least one primary school should be well endowed, and supported by the care and patronage of the state, to afford means within the reach of the scholar, to perfect an education competent to the discharge of business in the common concerns of society; but in what manner, and by what means this desirable end can be best attained, with the least possible expence, is a question of some difficulty.

The oppressed state of the community, in a pecuniary point of view, forbids, at this time, a direct appropriation from the treasury, of a sum any thing like adequate to this great and important object. It is true, the most sanguine hopes are entertained by some, that the revenue accruing to the state through the Bank of the Commonwealth, will constitute a fund in all respects answerable to the purposes of education and internal improvement. But when it is recollected that this bank has already issued nearly three millions of dollars, which is now to be withdrawn from circulation, the most zealous advocate of science would hesitate to draw any certain calculation from this quarter; more especially, as the fate of the bank itself has not as yet been tested by any fair experiment, calculated to ensure its character and permanency. In like manner the public resources have been trammelled and rendered almost useless, by the connexion now existing by law in relation to the bank, and cannot be considered as fair subjects of appropriation, or sources from whence to draw, at present, a revenue for different purposes. The public lands and stock of the state are solemnly pledged to redeem the bills of the bank from the hands of her creditors; and the most sanguine of the friends of literature, if equally devoted to the fair reputation of their country and the preservation of good faith, we are persuaded, would not disturb, at this time, those props to the bank, without which our dearest hopes would be blasted.

Your committee do not despair of the ultimate success of the bank, if properly managed, and that her revenues, together with those which we anticipate will certainly accrue from the unsold lands and public stock, will eventually, under proper regulations, enable Kentucky to commence and perfect a system of general education equal to her high character and expectations, wherein the arts and sciences will flourish, and assume a proud equality with those of the most civilized states.

As these objects cannot be attained at once, but must be gradually and progressively accomplished, your committee would earnestly recommend to the legislature, the immediate commencement of a system, by sectionizing the state into school districts, preparatory to ulterior measures of a more permanent character, which shall finally realize the just expectations of the people.

For these purposes they ask leave to introduce bills.

DAVID WHITE, Jr. *Chairman.*

Ordered, That Messrs. Pope, M'Affee and Carneal be added to said committee, who are directed to prepare and bring in bills in pursuance thereof.

Mr. Ballinger, from the joint committee of enrolments, reported that they had examined sundry enrolled bills of the following titles, to wit: "An act for the benefit of the sheriff of Monroe county; an act to amend the several acts concerning the town of Louisville; an act authorising Richard L. Walker and Nathan Harris to erect a mill dam across Rough creek, in Ohio county; an act for the benefit of Polly Simpson and her children; an act to authorise the editors of the Republican Orbit, a newspaper printed in Cynthiana, to insert certain advertisements; and had found the same truly enrolled.

A message from the house of representatives, by Mr. Yantis:

Mr. Speaker—The Speaker of the house of representatives having signed sundry enrolled bills, I am instructed to lay the same before the senate for the signature of their Speaker.

And then he withdrew.

Whereupon the Speaker signed said bills, being the same reported to-day by Mr. Ballinger, and they were delivered to the joint committee of enrolments, to be laid before the governor for his approbation and signature.

And after some time, Mr. Barbee, from said committee, reported that they had performed that duty.

A message from the house of representatives, by Mr. Luckett:

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled "an act for the benefit of Mary M'Casland, formerly the wife and widow of Abel Shannonhouse, deceased."

And then he withdrew.

Mr. Ewing, from the committee of propositions and grievances, made the following report, to wit:

The committee of propositions and grievances have, according to order, had under consideration the petition of sundry citizens of the counties of Floyd and Greenup, praying that a new county may be formed out of part of each of the said counties, and have come to the following resolution thereupon, to wit:

Resolved, That the said petition is reasonable.

Which being twice read, was concurred in.

Ordered, That said committee prepare and bring in a bill pursuant to said resolution.

A message from the house of representatives, by Mr. Green :

Mr. Speaker—The house of representatives have passed a bill entitled “an act for the relief of the sheriff of Green county;” in which they request the concurrence of the senate.

And then he withdrew.

On the motion of Mr. Faulkner, leave was given to bring in a bill to amend the act entitled “an act to amend the penal laws;” and Messrs. Faulkner, Roper and Worthington were appointed a committee to prepare and bring in the same.

Mr. White, from the committee appointed, presented a bill to amend the act vesting jurisdiction in the circuit courts to authorise the sale of the real estate of infants in certain cases; which was received and read the first time and ordered to be read a second time.

The senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Perrin in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Perrin reported, that the committee had, according to order, taken under consideration a resolution relative to the further issue of notes of the Commonwealth's Bank, and had made some progress therein; but not having time to go through the same, had instructed him to ask for leave to sit again.

Which being accordingly granted, the other orders of the day were postponed.

And then the senate adjourned.

WEDNESDAY, NOVEMBER 21, 1821.

The senate assembled.

A message from the house of representatives, by Mr. Warfield:

Mr. Speaker—The house of representatives have passed bills from the senate, of the following titles, to wit: An act for the benefit of Hardy Witherspoon, and an act to prevent any further subscription on the part of the state for bank stock; and they concur in the amendment proposed by the senate, to a bill entitled “an act to authorise the insertion of certain advertisements in the Kentucky Patriot and Springfield Literary Register.” And they have passed

bills of the following titles, to wit: An act to authorise sheriffs to sell real estate by virtue of executions issued upon judgments of justices of the peace; an act for the benefit of Jesse Walker; an act for the benefit of Jesse Walker and others; an act to alter the mode of taking in lists of taxable property; an act for the benefit of the clerk of the circuit and county courts of Cumberland; an act to regulate appeals from justices of the peace to the county courts; an act for the benefit of Samuel Simpson and others; an act for the benefit of R. D. N. Morgan, and an act for the benefit of the heirs of Stephen Rossell, deceased; in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Anderson:

Mr. Speaker—The house of representatives have passed a bill entitled "an act to add a part of Logan county to the county of Todd;" in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Cogswell:

Mr. Speaker—The house of representatives have passed a bill entitled "an act concerning the towns of Madisonville and North Middletown;" in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Cockerill:

Mr. Speaker—The house of representatives have passed a bill entitled "an act to regulate appeals from justices of the peace of this commonwealth;" in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Lockett:

Mr. Speaker—The house of representatives have passed a bill entitled "an act authorising an appropriation of money to the president and managers of the Louisville Hospital;" in which they request the concurrence of the senate.

And then he withdrew.

Mr. Ballinger, from the joint committee of enrolments, reported that they had examined sundry enrolled bills of the following titles, to wit: "An act for the benefit of the heirs of David C. Irvine, deceased; an act for the benefit of

the heirs of Turner Morehead and Lawrence Owen; an act for the benefit of the heirs of Roger Robbins, deceased; an act to amend the laws regulating attachments; an act for the benefit of Solomon Griffin and the heirs of Catherine Smith; an act to alter the mode of admitting persons to bail under writs of *habeas corpus*; and had found the same truly enrolled.

Mr. Pope, from the select committee to whom was referred a bill to amend the law concerning executions, reported the same with amendments; which, together with the bill, were committed to a committee of the whole house on the state of the commonwealth, for to morrow.

The senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Perrin in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Perrin reported, that the committee had, according to order, had under consideration resolutions from the house of representatives, in relation to the conduct which ought to be observed by judges on certain occasions, and had gone through the same with an amendment, which he handed in at the clerk's table, where the same was twice read and concurred in.

Mr. White then offered a preamble and resolution, as an amendment to the resolutions aforesaid; which being read, the whole matter was committed to messrs. White, Flournoy, Marshall, Roper, M'Affee, Owens and Carneal.

And then the senate adjourned.

THURSDAY, NOVEMBER 22, 1821.

The senate assembled.

A message from the house of representatives, by Mr. Yantis:

Mr. Speaker—The Speaker of the house of representatives having signed sundry enrolled bills, I am instructed to lay the same before the senate for the signature of their Speaker.

And then he withdrew.

Whereupon the Speaker signed said bills, being the same reported by Mr. Ballinger on yesterday, and they were delivered to the joint committee of enrolments, to be laid before the governor for his approbation and signature.

And after some time, Mr. Ballinger, from said committee, reported that they had performed that duty.

Mr. Williams, from the joint committee of enrolments, reported that they had examined sundry enrolled bills of the following titles, to wit: An act for the benefit of Hardy Witherspoon; an act to amend the act reserving certain property from execution; an act for the benefit of the wife and children of Benjamin Herndon; an act for the benefit of Mary M'Casland, formerly the wife and widow of Abel Shannonhouse, deceased; an act appointing trustees for the town of Boonesborough, and for other purposes; an act concerning the seminaries in the counties of Monroe, Perry, Jefferson and Simpson; an act authorising and directing the county court of Bourbon to open and keep in repair a certain road; an act to establish the line lately run between the states of Tennessee and Kentucky; an act authorising the insertion of advertisements in certain newspapers; an act for the benefit of Ansel Wilhoit; an act to prevent any further subscription on the part of the state for bank stock; and had found the same truly enrolled.

A message from the house of representatives, by Mr. Murray:

Mr. Speaker—The Speaker of the house of representatives having signed sundry enrolled bills, I am instructed to lay the same before the Senate, for the signature of their Speaker.

And then he withdrew.

Whereupon the Speaker signed said bills, being the same reported to day by Mr. Williams, and they were delivered to the joint committee, to be laid before the governor for his approbation and signature.

And after some time, Mr. Williams, from said committee, reported that they had performed that duty.

The following bills were reported from the several committees appointed to prepare and bring in the same, to wit: By Mr. Ward—A bill for the benefit of the widow and heirs of John R. Chitwood, deceased.

By Mr. Carpenter—A bill to revive the law against champerty and maintenance.

And by Mr. Faulkner—A bill to amend an act to amend the penal laws.

Which were severally read the first time and ordered to be read a second time.

The senate received from the governor, by Mr. Anderson, two messages in writing; one covering a communication from the executive of the state of Tennessee, in relation to

the boundary line between that state and this; and the other containing certain military nominations.

Mr. Beauchamp, from the select committee to whom was referred an engrossed bill to amend the law concerning constables, and a bill from the house of representatives, entitled "an act to authorise the appointment of an additional number of constables in certain counties," reported the same with amendments to the former, which were concurred in and the bill ordered to be re engrossed and read again.

The latter bill being amended at the clerk's table, was re-committed to Messrs. Owens, Roper and Beauchamp.

Mr. White, from the select committee to whom was referred the resolutions from the house of representatives, relative to the conduct of judges to be observed by them on certain occasions, reported the same with the following preamble to the resolutions, to wit:

Whereas it appears from the investigation of the official conduct of the honorable Benjamin Mills, judge of the court of appeals, during the present session of this general assembly, that powers and privileges have been claimed and exercised by the said judge, which are deemed inconsistent with the rights and liberties of the good citizens of this commonwealth, and contrary to the constitution, which this legislature consider of dangerous tendency, if permitted to pass unnoticed: Therefore, it becomes the duty of the representatives of the people, in the most solemn manner to express their disapprobation of the course pursued, and to mark out, in the most decided manner, the boundary of judicial powers: Therefore—

Mr. White moved the following preamble and resolutions as a substitute for the whole, to wit:

Whereas it appears to the general assembly, that the honorable Benjamin Mills, during the time he presided as judge of the third judicial district, did adjudicate and determine many causes wherein the corporation of the Bank of Kentucky was a party, himself being at the time a stockholder and member thereof, and deeply interested in the event of those matters put in issue by the parties adverse to the bank, although the right of the said Mills to sit thereon was most solemnly protested against. It also appears, that the said Mills, within the time he was judge of said district, did prohibit a defendant, charged before him with felony, from availing himself in his defence of his undoubted right of arguing before the jury the law as well as the fact of the case; thereby assuming to himself the power of con-

trolling the jury in the exercise of their ancient prerogative, of judging of the law as well as the fact, in criminal cases, and depriving the accused of his constitutional right of defence. In one instance, where said bank was plaintiff, it appears, that the said judge refused to permit a jurymen, before he was sworn, to answer a question put to him by defendant's counsel, whether he was or was not a stockholder, or otherwise interested in the question before the court; but, regardless of the legal enquiry, directed the jurymen forthwith to be sworn, which was done accordingly. And moreover, it further appears, that the said Mills, since his promotion to a seat on the bench of the court of appeals, has presided on, and participated in the decision of causes adjudged by him in the court below, some of which were suits on the part of the corporation of the Bank of Kentucky, and in which the said Mills continued to hold an interest as a stockholder.

It is believed, that such conduct on the part of a judge, in matters touching the vital interest of the community, and of such bad example and evil tendency, is calculated to sul-
 ty the purity of the judicial character; to endanger the right of private property, and to jeopardize the personal liberty of the citizen.

It is a maxim, as old as the law, and universally known, that no man shall be a judge, jurymen or witness in his own cause, and that the jury, in criminal cases, are the exclusive triers of law and fact; therefore it is to be presumed, that no judge would venture to plead ignorance of those radical and fundamental principles of our law. Judge Mills, in this respect, does not pretend ignorance. If he were, it would evidence such imbecility of intellect, and such want of legal acquirement, as to render him unfit to be entrusted with the administration of public justice, and would, of itself, be good cause for his removal from office. But the judge does not pretend either ignorance or mistake of the law. He boldly confesses, and attempts to justify, as if too proud to retract an error. He coils himself within the ermine of his self-created majesty, tramples on law and the constitution, and bids defiance to an injured and insulted public.

Such conduct in a judge, argues depravity of heart, and is entitled to no other name than that of *corruption*. The safety of the people, therefore, imperiously demands that such wanton outrages upon civil liberty, should be suddenly checked; that the sanctity of the judicial character should

be cleansed of suspicion, and public confidence therein restored: Therefore,

Resolved by the General Assembly of the Commonwealth of Kentucky, two-thirds of each branch concurring therein, that Benjamin Mills, a judge of the court of appeals, ought to be removed from office.

Resolved. That a joint committee of _____ from the senate, and _____ from the house of representatives, be appointed to prepare an address to his excellency the governor, for the removal of the said Benjamin Mills from the office of judge of the court of appeals.

Mr. Ward moved to lay the whole subject on the table until the first day of March next; and the question being taken thereon, it was resolved in the negative—Yeas 14, nays 23.

The yeas and nays being required thereon by messrs. Beauchamp and Worthington, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Bowman, Carpenter, Davidson, Faulkner, Given, J. L. Hickman, R. Hickman, Jones, Pope, Slaughter, Ward, Weir and Worthington.

Those who voted in the negative, are messrs. Ballinger, Barbee, Beauchamp, Bowmar, Carneal, Crutcher, Dawson, Ewing, Flournoy, Ford, Gorin, Lackey, Marshall, M'Affee, Mountjoy, Owens, Perrin, Pickett, Roper, Smith, Throckmorton, White and Williams.

The question was then taken on adopting the substitute offered by Mr. White, and it was resolved in the negative—Yeas 4, nays 33.

The yeas and nays being required thereon by messrs. Faulkner and Carpenter, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Dawson, Owens, Smith and White.

Those who voted in the negative, are, messrs. Anderson, Ballinger, Barbee, Beauchamp, Bowman, Bowmar, Carneal, Carpenter, Crutcher, Davidson, Ewing, Faulkner, Flournoy, Ford, Given, Gorin, J. L. Hickman, R. Hickman, Jones, Lackey, Marshall, M'Affee, Mountjoy, Perrin, Pickett, Pope, Roper, Slaughter, Throckmorton, Ward, Weir, Williams and Worthington.

The question was then taken upon concurring in the preamble, as reported by the select committee, and it was resolved in the negative—Yeas 18, nays 19.

The yeas and nays being required thereon by messrs. Jones and Faulkner, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Barbee, Beauchamp, Bowmar, Carneal, Crutcher, Dawson, Ewing, Flournoy, Gorin, Marshall, M'Affee, Mountjoy, Owens, Perrin, Smith, Throckmorton and White.

Those who voted in the negative, are, Messrs. Anderson, Bowman, Carpenter, Davidson, Faulkner, Ford, J. L. Hickman, R. Hickman, Jones, Lackey, Pickett, Pope, Roper, Slaughter, Ward, Weir, Williams and Worthington.

Mr. Flournoy then moved the following preamble, to be prefixed to the resolutions from the house of representatives:

An enquiry having been instituted into the judicial conduct of Benjamin Mills, Esq. one of the judges of the court of appeals, doubts having been entertained as to the correctness of his course in many points of vital importance; in order to express the opinion of the legislature thereupon, and to preserve inviolate certain fundamental principles—

And the question being taken thereon, it was resolved in the affirmative—Yeas 19, nays 18.

The yeas and nays being required thereon, by Messrs. Ward and Throckmorton, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Barbee, Beauchamp, Bowmar, Carneal, Crutcher, Dawson, Ewing, Flournoy, Gorin, Lackey, Marshall, M'Affee, Mountjoy, Owens, Perrin, Smith, Throckmorton and White.

Those who voted in the negative, are, Messrs. Anderson, Bowman, Carpenter, Davidson, Faulkner, Ford, Given, J. L. Hickman, R. Hickman, Jones, Pickett, Pope, Roper, Slaughter, Ward, Weir, Williams and Worthington.

The question was then taken upon the adoption of the resolutions and preamble as amended, and it was resolved in the affirmative—Yeas 20, nays 17.

The yeas and nays being required thereon by Messrs. Beauchamp and Williams, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Barbee, Beauchamp, Bowmar, Carneal, Crutcher, Dawson, Ewing, Flournoy, Ford, Gorin, Lackey, Marshall, M'Affee, Mountjoy, Owens, Perrin, Smith, Throckmorton and White.

Those who voted in the negative, are, Messrs. Anderson, Bowman, Carpenter, Davidson, Faulkner, Given, J. L. Hickman, R. Hickman, Jones, Pickett, Pope, Roper, Slaughter, Ward, Weir, Williams and Worthington.

Ordered, That Mr. Crutcher inform the house of representatives thereof and request their concurrence in the amendments.

A message from the house of representatives, by Mr. B. Taylor :

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled "an act to remove the seat of justice of Owen county," with an amendment, in which they request the concurrence of the senate.

And then he withdrew.

The amendment was taken up and concurred in.

Ordered, That Mr. Crutcher inform the house of representatives thereof.

A message from the house of representatives, by Mr. Lockett :

Mr. Speaker—The house of representatives have passed a bill entitled "an act to authorise the county court of Henderson to sell one acre of the public square in the town of Henderson;" in which they request the concurrence of the senate.

And then he withdrew.

On the motion of Mr. Owens, leave was given to bring in a bill to abolish the several judicial districts, and to regulate the circuit judges; and Messrs. Owens, Marshall and Pope were appointed a committee to prepare and bring it in.

And then the senate adjourned.

FRIDAY, NOVEMBER 23, 1821.

The senate assembled.

Mr. Roper, from the committee for courts of justice, made the following report, to wit :

The committee for courts of justice have, according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to wit :

Resolved, That the petition of John Knight and others, praying to be released from their securityship for Thomas Barnett, sheriff of Livingston county, *be rejected*.

Resolved, That the petition of William M'Bride, praying that himself and others may be permitted to locate certain lands warrants on any vacant lands lying south of the southern boundary line of this state, known by the name of

Walker's line, and north of north latitude $36^{\circ} 50'$, *be-
jected.*

Which being twice read was concurred in.

Mr. Ewing, from the committee of propositions and grievances, made the following report, to wit:

The committee of propositions and grievances have, according to order, had under consideration a petition to them referred, from sundry citizens of Knox county, praying that an alteration may be made in the Turnpike and Wilderness Road, and have come to the following resolution thereupon:

Resolved. That the said petition *be rejected.*

The committee of propositions and grievances have, according to order, had under consideration a bill from the house of representatives, entitled "an act for the removal of the seat of justice in Campbell county," and have come to the following resolution thereupon, viz.

Resolved. That the said bill ought *not to pass.*

Which being twice read, the former was concurred in, and the latter, together with the bill, committed to Messrs. Mountjoy, Carneal and Given.

Mr. Ballinger, from the joint committee of enrolments, reported that they had examined two enrolled bills of the following titles, to wit: "An act to establish election precincts in certain counties; an act to amend an act entitled an act to establish the county of Perry;" and had found the same truly enrolled.

A message from the house of representatives, by Mr. Yantis:

Mr. Speaker—The Speaker of the house of representatives having signed sundry enrolled bills, I am instructed to lay the same before the senate for the signature of their Speaker.

And then he withdrew.

Whereupon the Speaker signed said bills, being the same reported to-day by Mr. Ballinger, and they were delivered to the joint committee, to be laid before the governor for his approbation and signature.

And after some time, Mr. Ballinger, from said committee, reported that they had performed that duty.

A message from the house of representatives, by Mr. Howard:

Mr. Speaker—The house of representatives have passed bills from the senate, of the following titles: "An act for the relief of certain sheriffs," and "an act authorising the keeper of the penitentiary to build a smoke house," with

amendments, in which they request the concurrence of the senate.

And then he withdrew.

The amendment to the latter bill was taken up, twice read and concurred in.

Ordered, That Mr. Ewing inform the house of representatives thereof.

The nominations made on yesterday, were taken up and read as follows, to wit :

Gentlemen of the Senate,

I nominate for your advice and consent, the following gentlemen, to be commissioned during good behaviour, viz.

James Rudy, major of the 33d regiment, in the place of Thomas C. Powell, removed, to take rank from the 9th of June 1821.

William Kennedy, major of the 48th regiment, in the place of William Carmack, resigned.

JOHN ADAIR.

November 21st, 1821.

Resolved, That the senate advise and consent to said appointments.

The military nominations made on the 1st instant, were again taken up.

Resolved, That the senate advise and consent to the appointment of Thomas Wills, jun. as major of the 69th regiment.

Ordered, That messrs. Carneal and Pope inform the governor as to the former, and messrs. Crutcher and Carneal the latter.

The following bills were reported from the select committees to whom they were referred, to wit :

By Mr. Jones—A bill providing for the repairing and improving of the penitentiary.

And by Mr. Owens—A bill from the house of representatives, entitled “an act allowing an additional number of constables to certain counties.

Severally with amendments; those to the former were concurred in, and the bill ordered to be engrossed and read a third time. The latter bill was laid on the table.

Leave was given to bring in the following bills, to wit :

On the motion of Mr. Ewing—1. A bill to change the time of the annual meeting of the legislature.

On the motion of Mr. Given—2. A bill to extend the limits of the town of Princeton, and giving additional powers to the trustees thereof.

And on the motion of Mr. M'Affee—S. A bill to provide for the trial of causes in the court of appeals, in certain cases.

Messrs. Ewing, Flournoy and Roper were appointed a committee to prepare and bring in the first; Messrs. Given, Crutcher and Faulkner, the second; and Messrs. M'Affee, Marshall and Dawson, the third.

Mr. Ewing, from the committee of propositions and grievances, reported a bill for forming a new county out of the counties of Greenup and Floyd; which was received and laid on the table.

Leave was given Mr. Marshall to report a bill to regulate the Bank of the Commonwealth; which was read the first time, and the rule being dispensed with, it was read a second time and committed to a committee of the whole house on the state of the commonwealth.

Ordered, That the public printers forthwith print 200 copies of said bill, for the use of the members of the legislature.

The senate received information, by Mr. Anderson, that the governor did on yesterday approve and sign sundry enrolled bills which originated in the senate, of the following titles, to wit: An act for the benefit of Mary M'Casland, formerly the wife and widow of Abel Shannonhorse, deceased; an act for the benefit of the wife and children of Benjamin Herndon; an act for the benefit of Hardy Wither- spoon; an act to amend the act reserving certain property from execution, and an act to prevent any further subscription on the part of the state for bank stock.

Ordered, That the clerk inform the house of representatives thereof.

The senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth. Mr. Barbee in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Barbee reported, that the committee had, according to order, had under consideration a bill to amend the law concerning executions, and had gone through the same with an amendment in lieu of the bill and amendment; which he handed in at the clerk's table, where the same was twice read and concurred in.

Mr. Roper offered the following amendments to the bill, to wit:

Be it further enacted, That when any estate, real, personal or mixed, is held or covered by mortgage, deed of trust or

other incumbrance, all the right, title and interest which the mortgagor or grantor has in said estate, shall be subject to execution and sale, in the same manner as estate of the like kind now is, when the owner thereof has a legal title to the same; and the purchaser or purchasers shall take said estate subject to the *bona fide* lien or claim which the *mortgagee*, *cestui qui use* or other claimant may have upon said estate; and the sheriff or other officer making sale thereof shall convey to the purchaser or purchasers thereof, all the right, title and interest which the defendant or defendants in the execution may have to the same.

Be it further enacted, That whenever an execution of *fiere facias*, founded upon a judgment or decree, or upon any bond having the force of a judgment, shall issue to the proper officer, and be returned, as to the whole or any part thereof, in substance, that the defendant has no effects in his bailiwick to satisfy the same, the proper court or courts of chancery shall have jurisdiction, on bill filed, to subject to the satisfaction of such judgment, decree or bond, any choses in action belonging to the debtor, and also any equitable or legal interest in any estate, real, personal or mixed, which the debtor may be entitled to; and to that end, may bring other parties before the court, and make such decree as may be equitable, under the jurisdiction hereby conferred: *Provided*, that nothing in this act contained shall be construed to extend to those articles in possession of a defendant, which are exempted by law from execution.

The question being taken on the first section, it was resolved in the negative—Yeas 15, nays 17.

The yeas and nays being required thereon by messrs. Faulkner and Jones, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Barbee, Carpenter, Davidson, Faulkner, Flournoy, Ford, Given, J. L. Hickman, Jones, Perrin, Pickett, Roper, Slaughter, Smith and Ward.

Those who voted in the negative, are, Messrs. Ballinger, Beauchamp, Bowman, Bowmar, Carneal, Crutcher, Dawson, Ewing, Gorin, R. Hickman, Marshall, M'Affee, Mountjoy, Owens, Pope, Throckmorton and White.

The question was then taken on the second section, and it was resolved in the affirmative—Yeas 32, nays 1.

The yeas and nays being required thereon by messrs. Carpenter and Faulkner, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Barbee, Beauchamp, Bowman, Bowmar,

Carneal, Carpenter, Crutcher, Davidson, Dawson, Ewing, Faulkner, Flournoy, Ford, Given, Gorin, J. L. Hickman, R. Hickman, Jones, Marshall, M'Afee, Mountjoy, Perrin, Pickett, Pope, Roper, Slaughter, Smith, Throckmorton, Ward and White.

Mr. Owens voted in the negative.

Ordered, That the bill as amended be engrossed and read a third time.

And then the senate adjourned.

SATURDAY, NOVEMBER 24, 1821.

The senate assembled.

Mr. Marshall, from the select committee to whom was referred a bill from the house of representatives, entitled "an act for the divorce of William Spangler and Samuel Campbell," reported the same with an amendment, which was concurred in and the bill read a third time as amended.

The question was then taken on the passage thereof, as amended, and it was resolved in the affirmative—Yeas 21, nays 13.

The yeas and nays being required thereon by Messrs. Perrin and Ewing, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Ballinger, Bowman, Carpenter, Crutcher, Davidson, Ewing, Ford, Given, Gorin, R. Hickman, Lackey, Marshall, M'Afee, Mountjoy, Owens, Slaughter, Smith, Throckmorton, Ward, White and Worthington.

Those who voted in the negative, are, Messrs. Anderson, Barbee, Beauchamp, Bowmar, Carneal, Dawson, Faulkner, Flournoy, Jones, Perrin, Pickett, Pope and Roper.

Resolved, That the said bill as amended do pass, and that the title be amended to read, "an act for the divorce of William Spangler, Samuel Campbell and Elizabeth Wells."

Ordered, That Mr. Ewing inform the house of representatives thereof and request their concurrence in the amendments.

Leave was given to bring in the following bills, viz.

On the motion of Mr. Crutcher—1. A bill for the benefit of the jailer of Hardin county.

On the motion of Mr. Faulkner—2. A bill to prevent the destruction of timber.

On the motion of mr. Slaughter—3. A bill to amend the act appointing trustees for the town of Franklin.

And on the motion of mr. Carpenter—4. A bill to extend the powers of the trustees of Bardstown.

Messrs. Crutcher, Barbee and White were appointed a committee to prepare and bring in the first; messrs. Faulkner, M'Afee and Carpenter, the second; messrs. Slaughter, Smith and Given, the third; and messrs. Carpenter, Ballinger and Barbee, the fourth.

On the motion of mr. Owens, leave was given to withdraw the petition of the citizens of Knox county, relative to changing the route of the Turnpike road.

A bill to erect a new county out of the counties of Greenup and Floyd, was read the first time. The rule being dispensed with, it was read a second time and ordered to be engrossed and read a third time.

Mr. Ewing, from the select committee raised for that purpose, reported a bill to alter the time of the annual meeting of the legislature; which was read the first time and ordered to be read a second time.

A message from the house of representatives, by mr. Pope:

Mr. Speaker—The house of representatives have adopted resolutions concerning the Bank of Kentucky and the Bank of the Commonwealth of Kentucky; in which they request the concurrence of the senate.

And then he withdrew.

The amendments proposed by the select committee, to a bill to amend the act regulating divorces, approved January 31, 1809, were taken up, concurred in and the bill as amended ordered to be engrossed and read a third time.

An engrossed bill to explain and amend the penal laws, as respects the trial and punishment of slaves, was read a third time.

Resolved, That the said bill do pass, and that the title be "an act to explain and amend the penal laws, as respects the trial and punishment of slaves."

Ordered, That the clerk do carry said bill to the house of representatives and request their concurrence.

A bill to amend the act vesting jurisdiction in the circuit courts to authorise the sale of the real estate of infants in certain cases; a bill to amend an act entitled "an act for the benefit of Daniel Trabue and others," and a bill for the benefit of Luke Munsell, were severally read a second time and ordered to be engrossed and read a third time.

The two former bills having been engrossed, and the rule being dispensed with, they were severally read a third time.

Resolved, That the said bills do pass, and that the titles be, respectively, "an act to amend the act vesting jurisdiction in the circuit courts to authorise the sale of the real estate of infants in certain cases," and "an act for the benefit of Daniel Trabue and others."

Ordered, That the clerk do carry said bills to the house of representatives and request their concurrence.

A message from the house of representatives, by Mr. Todd:

Mr. Speaker—The house of representatives request leave to withdraw a bill which passed that house, entitled "an act to authorise sheriffs to sell real estate by virtue of executions issued upon judgments of a justice of the peace.

And then he withdrew.

Ordered, That leave be granted to withdraw said bill, and that Mr. Ewing inform the house of representatives thereof.

Bills from the house of representatives, of the following titles, to wit: An act for the benefit of Elijah Hise and others; an act declaring Big Barren river further navigable, and an act for the relief of Nancy Garth, were severally read a second time.

The second was amended at the clerk's table, and ordered, with the third bill, to be read a third time.

Mr. McAfee moved so to amend the first bill as to make it read as follows, to wit:

That whenever it may become necessary, hereafter, for any person to take an oath of office, or the oath to be taken by all who are admitted to the practice of the law within this commonwealth, the said oath shall be—"That he had not sent or accepted a challenge to fight in single combat with any deadly weapon, nor that he had been the bearer of a challenge for another, since the first day of September 1821; and that he will not, during his continuance in office, give, accept or knowingly carry a challenge to fight in single combat, or otherwise, with any deadly weapon, either in or out of this state;" any law, usage or custom to the contrary notwithstanding.

And the question being taken thereon, it was resolved in the affirmative—Yeas 21, nays 11.

The yeas and nays being required thereon, by Messrs. Beauchamp and Lackey, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Anderson, Ballinger, Barbee, Beauchamp, Bowman, Bowmar, Carneal, Carpenter, Crutcher, Davidson, Ewing, Faulkner, Given, Lackey, Marshall, M^aAfee, Owens, Pickett, Roper, Slaughter and White.

Those who voted in the negative, are, Messrs. Dawson, Flournoy, Ford, Gorin, J. L. Hickman, R. Hickman, Mountjoy, Perrin, Throckmorton, Ward and Worthington.

The question was then taken on reading the bill a third time as amended, and it was resolved in the affirmative—Yeas 20, nays 12.

The yeas and nays being required thereon by messrs. R. Hickman and Dawson, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Anderson, Ballinger, Barbee, Beauchamp, Bowman, Bowmar, Carneal, Carpenter, Crutcher, Davidson, Ewing, Faulkner, Given, Marshall, M^aAfee, Owens, Pickett, Roper, Slaughter and White.

Those who voted in the negative, are, Messrs. Dawson, Flournoy, Ford, Gorin, J. L. Hickman, R. Hickman, Lackey, Mountjoy, Perrin, Throckmorton, Ward and Worthington.

The bill was then further amended, by striking out the preamble; and the rule being dispensed with, the said bills were severally read a third time, the first and second as amended.

Resolved, That the said bills do pass, the first and second as amended; and that the title of the second be amended to read, "an act to amend the act more effectually to suppress the practice of duelling."

Ordered, That the clerk inform the house of representatives thereof, and request their concurrence in the amendments.

Bills from the house of representatives, of the following titles, to wit: An act for the benefit of the sheriff of Green county, and an act authorising an appropriation of money to the president and managers of the Louisville Hospital, were severally read the first time; and the rule being dispensed with, they were severally read a second time, amended at the clerk's table and read a third time.

Resolved, That the said bills, as amended, do pass, and that the title of the former be amended to read, "an act for the benefit of the sheriffs of Green and Monroe counties."

Ordered, That the clerk inform the house of representatives as to the former bill, and Mr. Pope of the latter, and request their concurrence in the amendments.

The amendment proposed by the house of representatives to a bill entitled "an act for the relief of certain sheriffs," was taken up and concurred in with an amendment.

Ordered, That the clerk inform the house of representatives thereof and request their concurrence in the amendment.

And then the senate adjourned.

MONDAY, NOVEMBER 26, 1821.

The senate assembled.

The lieutenant governor being absent, Mr. Ewing was unanimously elected speaker for the occasion; and being conducted to the chair, made acknowledgments for the honor conferred.

The following bills were reported from the select committees to whom they were referred, to wit:

By Mr. Marshall—A bill to encourage a publication of a Digest of the Statutes.

And by Mr. J. L. Hickman—A bill concerning jailers' fees.

Severally with amendments, which were concurred in, the former with amendments, and ordered to be engrossed and read a third time.

The former bill, having been engrossed, was read a third time.

Resolved, That the said bill do pass, and that the title be "an act to encourage the publication of a Digest of the Statute Law of Kentucky."

Ordered, That the clerk do carry said bill to the house of representatives and request their concurrence.

The following bills were reported from the several committees appointed to prepare and bring in the same, to wit:

By Mr. Slaughter—1. A bill to amend an act entitled "an act to appoint trustees to the town of Franklin."

By Mr. Given—2. A bill to extend the limits of the town of Princeton, to legalize the proceedings of the trustees thereof and give them additional powers, and for other purposes.

By Mr. White—3. A bill to promote education.

And leave was given mr. Williams to report, 4. a bill to authorise the county court of Montgomery to elect trustees to the Montgomery academy.

Which were severally read the first time and ordered to be read a second time.

The rule being dispensed with, the first, second and fourth bills were severally read a second time; and having been engrossed, were read a third time

Resolved, That the said bills do pass, and that the titles be, respectively, "an act to amend an act entitled an act to appoint trustees to the town of Franklin; an act to extend the limits of the town of Princeton, to legalize the proceedings of the trustees thereof and give them additional powers, and for other purposes; and an act to authorise the county court of Montgomery to elect trustees of the Montgomery academy."

Ordered, That the clerk do carry said bills to the house of representatives and request their concurrence.

On motion,

Ordered, That a message be sent to the house of representatives, asking leave to withdraw a bill from that house, which passed the senate, entitled "an act authorising an appropriation of money to the president and managers of the Louisville Hospital;" and that mr. Pope do carry said message.

Mr. Dawson moved the following resolution, to wit:

Resolved, That during the remainder of the session, the senate will meet at 9 o'clock A. M.

And the question being taken on the adoption thereof, it was resolved in the negative; and so the resolution was rejected.

A message from the house of representatives, by Mr. R. C. Anderson:

Mr. Speaker—The house of representatives give leave to withdraw the bill entitled "an act authorising an appropriation of money to the president and managers of the Louisville Hospital."

And then he withdrew.

The question on the amendment to said bill was reconsidered, and the amendment withdrawn.

Resolved, That the said bill do pass, and that Mr. Pope inform the house of representatives thereof.

A message from the house of representatives, by Mr. Love:

Mr. Speaker.—The house of representatives have passed a bill entitled “an act making compensation for the surveyor and others employed on the part of this state for running and marking the boundary line between the states of Kentucky and Tennessee;” in which they request the concurrence of the senate.

And then he withdrew.

Bills from the house of representatives, of the following titles, to wit: 1. An act for the benefit of Jesse Walker; 2. an act for the benefit of Jesse Walker and others; 3. an act for the benefit of Samuel Simpson and others; 4. an act for the benefit of the clerk of the circuit and county courts of Cumberland; 5. an act adding part of Logan to Todd county; 6. an act to authorise the county court of Henderson to sell one acre of the public square in the town of Henderson; 7. an act to alter the mode of taking in lists of taxable property; were severally read the first time.

The rule being dispensed with, the six former were read a second time, and the 2d, 3d and 4th amended at the clerk's table; and the 1st, 2d, 3d and 4th were read a third time.

Resolved, That the 1st, 2d, 3d and 4th bills do pass; the 2d, 3d and 4th as amended, and that the title of the 4th be amended to read, “an act for the benefit of the clerk of the circuit and county courts of Cumberland, and the surveyor of Casey.”

Ordered, That the clerk inform the house of representatives thereof and request their concurrence in the amendments.

The fifth bill was committed to the committee of propositions and grievances; the sixth, ordered to be read a second time.

Mr. Bowman moved to lay the seventh bill on the table until the first day of March next; and the question being taken thereon, it was resolved in the affirmative—Yeas 18, nays 17.

The yeas and nays being required thereon by Messrs. R. Hickman and Throckmorton, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Anderson, Ballinger, Beauchamp, Bowman, Bowmar, Carpenter, Crutcher, Davidson, Ewing, Flournoy, Marshall, Owens, Pickett, Pope, Roper, Slaughter, Smith and White.

Those who voted in the negative, are, Messrs. Barbee, Carneal, Dawson, Faulkner, Ford, Given, Gorin, J. L. Hickman, R. Hickman, Jones, Lackey, Mountjoy, Perring, Throckmorton, Ward, Williams and Worthington.

The senate received from the governor, by Mr. Anderson, a message in writing, containing a nomination. The rule being dispensed with, it was taken up and read as follows, to wit:

Gentlemen of the Senate,

The county court of Breckinridge county having failed to recommend a sheriff, in the place of James Moorman, whose term of service will expire on the 19th of March next, according to the provisions of the constitution of this commonwealth; I therefore nominate for your advice and consent, Andrew Rowan, as sheriff of said county.

JOHN ADAIR.

November 26th, 1821.

Resolved, That the senate advise and consent to said appointment.

Ordered, That messrs. Anderson and Crutcher inform the governor thereof.

And then the senate adjourned.

TUESDAY, NOVEMBER 27, 1821.

The senate assembled.

Mr. Owens moved the following resolution, to wit:

Whereas Col. Thomas Dollerhide, late a member of the senate from the county of Pulaski, departed this life on yesterday; and as a testimony of the high respect due to his memory,

Resolved, That the members and officers of the senate wear crape on their left arm for the balance of the session.

And be it further resolved, That they adjourn at 1 o'clock to day, for the purpose of attending his interment.

And the question being taken on the adoption thereof, it was resolved in the affirmative.

Ordered, That a message be sent to the house of representatives, informing them of the fact, and the course the senate will pursue on the occasion; and request that they will attend the funeral, if convenient.

Ordered, That Mr. Pope do carry said message.

A message from the house of representatives, by Mr. Love:

Mr. Speaker—The house of representatives concur in the amendment proposed by the senate to resolutions concerning the conduct to be observed by judges on certain occasions. They have passed bills from the senate, of the fol-

lowing titles, to wit: An act to legalize the proceedings of the Floyd county court, and an act for the benefit of the sheriff of Caldwell county; and they have adopted resolutions in relation to a portion of the public lands of the United States as a means of creating a fund for promoting education, and to the right of the several states of the Union to a part of the same for that purpose; in which they request the concurrence of the senate.

And then he withdrew.

Resolved, That a writ of election do issue to the county of Pulaski, to be held on Monday the 10th day of December next, to elect a senator for the residue of the term for which the late Thomas Dollerhide was elected.

Bills from the house of representatives, of the following titles, to wit: 1. An act concerning the towns of Madisonville and North Middletown; 2. an act for the benefit of the heirs of Stephen Rossell, deceased; 3. an act to regulate appeals from justices of the peace to the county courts; and 4. an act to regulate appeals from justices of the peace in this commonwealth; were severally read the first time.

The rule being dispensed with, they were read a second time, and the first a third time.

Resolved, That the first bill do pass, and that the clerk inform the house of representatives thereof.

The question being taken on reading the fourth bill a second time, it was resolved in the affirmative—Yeas 17, nays 14.

The yeas and nays being required thereon by messrs. Dawson and Throckmorton, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Barbee, Crutcher, Dawson, Ewing, Flournoy, Gorin, Jones, Lackey, Mountjoy, Owens, Pickett, Roper, Smith, Ward and Worthington.

Those who voted in the negative, are, messrs. Beauchamp, Bowman, Bowmar, Carneal, Davidson, Faulkner, Ford, Given, Marshall, Perrin, Pope, Slaughter, Throckmorton and White.

The third and fourth bills were committed to messrs. Flournoy, Owens and Roper.

Leave was given to bring in the following bills, to wit:

On the motion of mr. Beauchamp—A bill to amend an act for the relief of insolvent debtors.

And on the motion of mr. Mountjoy—A bill to amend an act to regulate the town of Falmouth.

Messrs. Beauchamp, Pope and Carneal were appointed a committee to prepare and bring in the former, and messrs. Mountjoy, Lackey and Throckmorton the latter.

A bill for the benefit of the widow and heirs of John R. Chitwood; a bill to amend an act entitled "an act to amend the penal laws," and a bill to revive the law against champerty and maintenance, were severally read a second time, and the two former ordered to be engrossed and read a third time. The latter was committed to messrs. Beauchamp, Flournoy, Carpenter and Roper.

The rule being dispensed with, and the first bill having been engrossed, it was read a third time.

Resolved, That the said bill do pass, and that the title be "an act for the benefit of the widow and heirs of John R. Chitwood."

Ordered, That Mr. Ward do carry said bill to the house of representatives and request their concurrence.

An engrossed bill to amend the law concerning executions, was committed to messrs. Marshall, White, Pope, Roper, Flournoy, Jones and Beauchamp.

Mr. Beauchamp moved to have 150 copies of said bill printed, for the use of the members of the legislature; and the question being taken thereon, it was resolved in the negative—Yeas 15, nays 18.

The yeas and nays being required thereon by messrs. Owens and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Ballinger, Beauchamp, Bowman, Davidson, Dawson, Ewing, Ford, Lackey, Mountjoy, Owens, Pickett, Pope, Slaughter, Williams and Worthington.

Those who voted in the negative, are, messrs. Anderson, Barbee, Carneal, Carpenter, Crutcher, Faulkner, Flournoy, Given, Gorin, R. Hickman, Jones, Marshall, Perrin, Roper, Smith, Throckmorton, Ward and White.

An engrossed bill for the benefit of Luke Munsell, was read a third time; and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 26, nays 6.

The yeas and nays being required thereon by messrs. Dawson and Pope, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Ballinger, Barbee, Beauchamp, Bowman, Bowmar, Carneal, Crutcher, Davidson, Ewing, Flournoy, Ford, Given, Gorin, Lackey, Owens, Perrin, Pickett, Pope, Roper, Slaughter, Smith, Throckmorton, Ward, Weir, White and Williams.

Those who voted in the negative, are, messrs. Carpenter, Dawson, Faulkner, R. Hickman, Mountjoy and Worthington.

Resolved, That the said bill do pass, and that the title be "an act for the benefit of Luke Munsell."

Ordered, That the clerk do carry said bill to the house of representatives and request their concurrence.

A message from the house of representatives, by Mr. Luckett:

Mr. Speaker—The house of representatives will adjourn to-day at 1 o'clock, to attend the funeral of the late Thomas Dollerhide; and will leave it with the senate to point out the order of the procession.

And then he withdrew.

Whereupon messrs. Carnal, Pope and White were appointed a committee on the part of the senate, to co-operate with a committee from the house of representatives, to arrange the order of procession.

A message from the house of representatives, by Mr. Payne:

Mr. Speaker—The house of representatives have appointed a committee to co-operate with one from the senate, to arrange the order of procession in the funeral of the late Thomas Dollerhide.

And then he withdrew.

Mr. White, from said committee, made the following report, to wit:

The members of both branches of the legislature will proceed from the state house, at 6 o'clock P. M. at the ringing of the bell, to the house of Littleberry Batchelor; thence proceed with the corpse to the place of interment.

The following order of procession shall be observed: The corpse shall precede the procession; the speakers of both houses shall follow, and be succeeded by the members of both branches, by twos.

A message from the house of representatives, by Mr. Warfield:

Mr. Speaker—The house of representatives have adopted a resolution fixing on a day for the election of a president and directors of the Bank of the Commonwealth and branches; a president and directors of the Bank of Kentucky, and other officers; in which they request the concurrence of the senate.

And then he withdrew.

Mr. Lackey presented the petition of sundry citizens of Bourbon county, praying the erection of a new county out of parts of Bourbon, Bath, Nicholas and Montgomery ; which was read and referred to the committee of propositions and grievances.

Mr. White read and laid on the table the following resolutions :

Whereas unforeseen causes, beyond individual control and out of the reach of any remedy which the power of this legislature can afford, have involved a considerable portion of the community in hopeless insolvency ; and it is considered proper, that the congress of the United States should now exert the redeeming power with which it is exclusively entrusted, to restore to the commonwealth the activity and energy of all its citizens, by relieving the debtor from the obligation of such demands of the creditor as he has no means to satisfy—demands as useless to the one, as they are humiliating, oppressive and destructive to the other : Therefore,

Resolved by the General Assembly of the Commonwealth of Kentucky, That a bankrupt law, to have at least a temporary operation, ought to be passed by the congress of the United States, embracing and applicable to the condition of every class of the community.

Resolved, That our senators be instructed, and the representatives from Kentucky be requested to lay this expression of the opinion of the general assembly before the bodies to which they respectively belong, and to urge the effectuation of it in the most respectful and suitable manner.

Resolved, That the governor be requested to transmit to our senators and representatives in congress, each, a copy of the above resolutions.

And then the senate adjourned.

WEDNESDAY, NOVEMBER 28, 1821.

The senate assembled.

Mr. Davidson, from the joint committee appointed to examine and report the state of the treasurer's office, made the following report, to wit :

The joint committee of the senate and house of representatives appointed to examine the Treasurer's Office, have performed that duty.

They have with great care and labor, examined the evidence and vouchers in support of each charge against the commonwealth, and receipts in the period of the last twelve months, commencing on the 11th of October 1820, and ending on the 10th of October, 1821, inclusive, they find all the charges supported by legal vouchers. They discovered no mistake in any instance. The receipts correspond with the books of the Treasury. They compared the general account as stated in the Treasurer's books, with his report made to the legislature on the 17th of October last, and find a perfect correspondence between the books & said report.

Your committee therefore deem it unnecessary to make a detailed statement, as it would be but a repetition of the Treasurer's report.

Your committee are highly pleased with the manner in which that office is kept, and the correct and neat manner in which the business is done.

From the Senate,

JAMES DAVIDSON,
JOHN FAULKNER,
THO. S. SLAUGHTER.

From the House of Representatives,

C. H. ALLEN,
JAMES STONE,
JAMES DEJARNETT,
JOHN JACKMAN,
JOHN BUFORD.

Mr. Bowmar, from the joint committee appointed to examine and report the state of the Bank of Kentucky, made the following report, to wit:

THE joint committee appointed to examine the situation of the Bank of Kentucky, have performed the duty required, and have agreed upon the following report:

The capital stock of the said Bank consists of 27,246 shares at \$100 or \$2,724,600

All of which has been paid by the respective shareholders, except upon 9 shares there yet remains unpaid,

680

Total amount of capital stock paid in,	2,723,920 00
Of the said stock the state owns	
5,967 shares or	\$596,700

Owned by corporations 283	
shares or,	28,300
By individuals 20,996 shares	
or,	2,098,920—2,723,920 00

Balance not paid for by individuals upon 9 shares, \$680	
which draws no dividend,	680
Amount of debts due the corporation,	4,019,706 45
The parts thereof consisting of accounts against other banks, &c.	180,935 02

Due upon bills of exchange and negotiable notes,	3,838,771 43
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Of which \$592,893 79 is due from stockholders and secured by pledge of stock, and for which 7,392 shares are pledged.

Stockholders who are indebted to the institution, could extinguish with their stock at par,	782,882 00
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Leaving due from individuals without stock,	3,055,889 43
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The amount of cash on hand in the bank and its branches is classed as follows :

Specie,	270,502 10
Paper reported by the bank as equal to specie,	22,387 00
Paper of the offices of said bank,	371,171 00
Do. of the bank of the Commonwealth,	153,081 33
Do. of other banks note equal to specie but good,	810 25
Do. do. not current,	5,068 50
Do. do. insolvent,	1,322 25
Do. do. counterfeit,	998 10

Total,	825,350 53
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The notes of said Bank under issue on the first of October last, as appears by the report made to the Legislature,

\$1,290,888 06

Of which had been redeemed and in possession of their offices up to and on the same day,	371,171 00
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Leaving of their notes on the same day unredeemed and in circulation,	919,717 06
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The deposits in the several offices of the corporation amount to,
Under this head are included, balances due from the offices respectively each to the other, to the amount of

799,663 47

109,959 00

Leaving of the deposits for which the corporation is indebted,

689,704 47
919,717 06

To which add their notes in circulation,

The Bank indebted,

\$1,609,421 53

The annexed abstract exhibits the above statements, as the funds, debts, &c. are applicable to the several offices.

OFFICE.	STOCK	Notes in circulation		Deposites.		Cash on hand.		Due to the Bank		SPECIE.	
		D	C	D	C	D	C	D	C	D	C
Frankfort,	642,220	339,349	31	100,265	19	47,487	26	1081,095	14	26,976	01
Washington,	250,000	58,533	75	49,927	76	61,127	56	292,779	35	18,293	23
Paris,	160,000	47,714		48,950	24	54,218	51	197,278	21	18,043	99
Winchester,	120,000	41,165	51	51,455	65	48,107	29	168,039	39	3,944	79
Lexington,	272,600	30,385		145,099	47	155,738	07	292,313	32	16,609	57
Shelbyville,	110,000	48,487		38,642	44	16,135	92	168,248	46	5,786	42
Louisville,	325,000	41,515	75	44,435	40	115,285	77	391,597	15	34,780	27
Bardstown,	13,900	77,227		26,635	43	39,062	21	167,046	81	19,156	71
Springfield,	100,000	79,802		9,442	31	24,155	51	167,234	05	13,859	53
Danville,	150,000	84,702	50	7,519	41	45,973	62	1,822	10	27,775	63
Richmond,	120,000	52,410		43,166	01	43,733	73	174,35	17	16,620	73
Glasgow,	100,000	106,775		17,750	95	29,392	85	197,126	95	11,977	85
Russellville,	140,000	149,376	25	74,628	93	80,539	71	287,877	51	31,283	97
Hopkinsville	120,000	133,524		44,824	22	64,392	39	236,896	84	25,493	39
	2,723,920	1,290,888	06	799,663	47	825,350	53	4,019,706	45	270,502	10

Stock,	2,723,920
Notes in cir. or under issue,	1,290,888 06
Deposites,	799,663 47
	\$4,814,471 53
Reserved profits,	69,599 30
Running profits,	55,961 64
	\$4,940,032 47

Cash on hand,	825,350 53
Due to the bank,	4,019,706 45
Real estate,	80,289 82
	\$4,925,346 80
Charges.	14,554 53
Deficit of Cash,	131 14
	\$4,940,032 47

The foregoing statements are made upon information which your committee obtained at the bank, and is respectfully submitted.

From the Senate,

HERMAN BOWMAR,
ALEXANDER POPE,
JAMES CRUTCHER,
TH. D. CARNEAL.

From the House of Representatives,

JOHN POPE,
JOHN CALHOUN,
LEE WHITE,
JAMES LOVE,
GEORGE SHANNON,
DAVID G. COWAN,
THOMAS FLETCHER.

Ordered, That the public printers forthwith print 500 copies of said report, for the use of the members of the senate.

A message from the house of representatives, by Mr. Brents:

Mr. Speaker.—The house of representatives concur in the amendment proposed by the senate to a bill entitled “an act for the benefit of the sheriff of Green county;” and they have passed a bill from the senate, entitled “an act to prevent horse racing on the public highways,” with an amendment, in which they request the concurrence of the senate.

And then he withdrew.

On motion of Mr. White, leave was given him to report a bill concerning the qualification of the president and directors of the Bank of Kentucky, on the part of the state; which was read the first time.

The rule being dispensed with, it was read the second time.

Mr. Owens moved to amend the bill, by adding thereto the following section, to wit:

Be it further enacted, That the directors on the part of the state shall not be stockholders in said bank; and if at any time hereafter any director on the part of the state may become a stockholder in said bank, his said office shall be vacated.

Mr. J. L. Hickman moved to amend the amendment, by attaching thereto the following clause, to wit:

No debtor to the Bank of Kentucky, nor endorser to any debtor or debtors of said bank, shall be elected as director

to the Bank of Kentucky on the part of the state. The seat of any director so situated, or that may hereafter become so, shall be vacated.

And the question being taken on the latter amendment, it was resolved in the negative—Yeas 13, nays 24.

The yeas and nays being required thereon by messrs. Beauchamp and Throckmorton, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Beauchamp, Bowman, Lackey, M'Afee, Mountjoy, Owens, Perrin, Throckmorton, Ward, Weir and Worthington.

Those who voted in the negative, are, messrs. Barbee, Bowman, Carneal, Carpenter, Crutcher, Davidson, Dawson, Ewing, Faulkner, Flournoy, Ford, Given, Gorin, J. L. Hickman, R. Hickman, Jones, Marshall, Pickett, Pope, Roper, Slaughter, Smith, White and Williams.

And so the said amendment was rejected.

The question was then taken on the former amendment, and it was resolved in the negative—Yeas 13, nays 24.

The yeas and nays being required thereon by Messrs. Beauchamp and Throckmorton, were as follows, to wit :

Those who voted in the affirmative, are, Messrs. Anderson, Ballinger, Beauchamp, Bowman, Lackey, M'Afee, Mountjoy, Owens, Perrin, Throckmorton, Ward, Weir and Worthington.

Those who voted in the negative, are, Messrs. Barbee, Bowman, Carneal, Carpenter, Crutcher, Davidson, Dawson, Ewing, Faulkner, Flournoy, Ford, Given, Gorin, J. L. Hickman, R. Hickman, Jones, Marshall, Pickett, Pope, Roper, Slaughter, Smith, White and Williams.

The question was then taken on engrossing and reading said bill a third time, and it was resolved in the affirmative—Yeas 36, nay 1.

The yeas and nays being required thereon by messrs. Beauchamp and J. L. Hickman, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Barbee, Beauchamp, Bowman, Bowman, Carneal, Crutcher, Davidson, Dawson, Ewing, Faulkner, Flournoy, Ford, Given, Gorin, J. L. Hickman, R. Hickman, Jones, Lackey, Marshall, M'Afee, Mountjoy, Owens, Perrin, Pickett, Pope, Roper, Slaughter, Smith, Throckmorton, Ward, Weir, White, Williams and Worthington.

Mr. Carpenter voted in the negative.

The said bill having been engrossed, and the rule being dispensed with, it was read a third time.

Resolved, That the said bill do pass, and that the title be "an act concerning the qualification of the president and directors of the Bank of Kentucky on the part of the state.

Ordered, That Mr. White do carry said bill to the house of representatives and request their concurrence.

The following bills were reported from the select committees to whom they were referred, to wit :

By Mr. Faulkner—A bill declaring the power of county courts relative to opening roads.

And by Mr. Marshall—A bill to amend and repeal in part an act to amend and extend the charter of the Bank of Kentucky.

Severally with amendments in lieu of the bills.

Those to the former were concurred in and the bill ordered to be re engrossed and read again.

The said bill having been re engrossed, was read again.

Resolved, That the said bill do pass, and that the title be "an act declaring the power of county courts relative to opening roads."

Ordered, That Mr. Ward do carry said bill to the house of representatives and request their concurrence.

The latter bill, with the amendments, was laid on the table.

Ordered, That the public printers forthwith print 150 copies of said bill, for the use of the members of the senate.

The resolution appointing joint committees on the reports from the Bank of the Commonwealth and branches, was taken up and the amendment reported by the select committee concurred in as follows, to wit :

Strike out from the word "report," in the 13th line, and insert "specially to each branch of the general assembly, whether the paper has been properly distributed among the branches by the directory of the bank; whether the different counties have received their due proportion; whether it has been impartially loaned to the different applicants; whether loans have been made to persons notoriously insolvent; whether any persons have either directly or indirectly borrowed larger sums than authorised by law; what amount of debt may be considered doubtful; and generally, any and every instance of misconduct in the directors, or any one of them, in relation to the management of said institution, and all other matters and things which they may deem material. And said committees have, respectively, power to send for persons, papers and records, for their information.

Resolved, That where a senator may represent part of two bank districts, he shall examine that bank in the district in which he may reside."

Ordered, That Mr. Faulkner inform the house of representatives thereof and request their concurrence in the amendment.

Mr. Carneal presented the petitions of sundry citizens of the county of Campbell, for and against the removal of their seat of justice; which were read and referred to the select committee to whom was referred a bill from the house of representatives upon the subject.

A bill to promote education, was read a second time, and committed to messrs. Flournoy, M'Attee and Beauchamp.

The following bills were reported, to wit:

By Mr. Jones—A bill to change the March term of the Madison circuit court.

And by Mr. Beauchamp—A bill to amend an act for the relief of insolvent debtors.

Which were severally read the first time and ordered to be read a second time.

The rule being dispensed with, the former bill was read a second time; and having been engrossed, was read a third time.

Resolved, That the said bill do pass, and that the title be "an act to change the March term of the Madison circuit court."

Ordered, That Mr. Jones do carry said bill to the house of representatives and request their concurrence.

A message from the house of representatives, by Mr. Love:

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled "an act to increase and regulate the judicial districts," with amendments, in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. J. G. Hardin:

Mr. Speaker—The house of representatives have passed a bill entitled "an act for the benefit of the heirs of George Chism, deceased;" in which they request the concurrence of the senate.

And then he withdrew.

Mr. Owens, from the select committee to whom was referred an engrossed bill concerning head right claims, re-

ported the same with an amendment, which being twice read was disagreed to.

The question was then taken on the passage of said bill, and it was resolved in the negative; and so the said bill was rejected.

And then the senate adjourned.

THURSDAY, NOVEMBER 29, 1821.

The senate assembled.

Mr. Flournoy, from the committee of propositions and grievances, to whom was referred a bill from the house of representatives, entitled "an act to add a part of Logan county to the county of Todd," reported the same without amendment, and the bill was read a third time.

Resolved, That the said bill do pass, and that Mr. Given inform the house of representatives thereof.

Mr. Jones, from the committee of propositions and grievances, made the following report, to wit:

The committee of propositions and grievances have, according to order, had under consideration the petitions and counter petitions of sundry citizens of the counties of Bourbon, Montgomery, Bath and Nicholas, praying a new county to be erected out of parts of each of said counties, and have come to the following resolution thereupon, to wit:

Resolved, That the said petition *be rejected*.

Which was twice read and concurred in.

The following bills were reported by the select committees appointed to prepare and bring in the same, to wit:

By Mr. Carneal—A bill to equalize the salaries of the auditor, register and Treasurer.

By Mr. Faulkner—A bill to prevent the destruction of timber.

And by Mr. Owens—A bill to amend an act entitled "an act appointing persons to view a way for a road from Danville to the Tennessee line."

Which were severally read the first time and ordered to be read a second time.

The rule being dispensed with, the first bill was read a second time and committed to messrs. Marshall, Pope and Carpenter.

And after some time, Mr. Marshall, from said committee, reported the bill with an amendment, which was twice read,

concurred in and the bill ordered to be engrossed and read a third time.

A message from the house of representatives, by Mr. Fletcher :

Mr. Speaker—The house of representatives have passed a bill entitled “an act to regulate the Bath seminary, in Bath county;” in which they request the concurrence of the senate.

And then he withdrew.

Mr. Flournoy, from the committee to whom was referred bills from the house of representatives of the following titles, to wit: An act to regulate appeals from justices of the peace to the county courts, and an act to regulate appeals from justices of the peace in this commonwealth, reported the former without amendment, and the latter with a resolution that it ought *not to pass*; which resolution was concurred in.

The question being taken on reading the latter bill a third time, it was resolved in the negative; and so the said bill was rejected.

The former bill was read a third time.

Resolved, That the said bill do pass, and that the clerk inform the house of representatives thereof.

A message from the house of representatives, by Mr. Brents :

Mr. Speaker—The house of representatives concur in the amendments made by the senate to bills of the following titles, to wit: An act for the benefit of Elijah Hise and others; an act declaring Big Barren river further navigable; and an act for the divorce of William Spangler and Samuel Campbell. They have passed bills from the senate of the following titles, to wit: An act authorising the keepers of turnpike gates to take up strays; an act for the benefit of the heirs of Patrick H. Rice; and an act to amend the militia law, with amendments to the latter. And they have passed bills of the following titles: An act to amend the act incorporating the shareholders and directors of the Lexington Library; an act to alter and amend the fifth section of an act entitled “an act to amend and reduce into one the several acts regulating Middletown, in Jefferson county;” an act for the benefit of the heirs of James M^cKnight; an act for the benefit of the heirs of Abraham Carter, deceased; an act authorising the register to perform certain duties; and an act for disposing of the lands east of Tennessee river, and south of Walker’s line, and north of latitude 36° 30’;

in which amendments and bills they request the concurrence of the senate.

And then he withdrew.

Mr. Crutcher, from the select committee to whom was referred a bill declaring the power of county courts in laying their levies, reported the same with amendments, which, together with the bill, were laid on the table until the first day of March next.

Mr. Marshall, from the select committee to whom was referred a bill to amend the law concerning executions, reported the same with an amendment in lieu of the bill, which was laid on the table.

Ordered. That the public printers forthwith print 200 copies of the bill and amendment, for the use of the members of the senate.

And then the senate adjourned.

FRIDAY, NOVEMBER 30, 1821.

The senate assembled.

Mr. Williams, from the joint committee of enrolments, reported that they had examined sundry enrolled bills of the following titles, to wit: An act to remove the seat of justice of Owen county; an act to legalize the proceedings of the Floyd county court; an act for the benefit of the sheriff of Caldwell county; an act authorising the keeper of the penitentiary to build a smoke-house; an act for the benefit of the heirs of Patrick H. Rice; an act authorising the keepers of turnpike gates to take up strays; an act for the divorce of William Spangler, Samuel Campbell and Elizabeth Wells; an act declaring Big Barren river further navigable; an act to amend the act more effectually to suppress the practice of duelling; an act authorising the appropriation of money to the president and managers of the Louisville Hospital; an act for the benefit of Nancy Garth; an act for the relief of the sheriffs of Green and Monroe counties; an act concerning the towns of Madisonville and North Middletown; an act for the benefit of Jesse Walker; and a resolution relative to the conduct which ought to be observed by judges on certain occasions; and had found the same truly enrolled.

A message from the house of representatives, by Mr. Yantis:

Mr. Speaker—The Speaker of the house of representatives having signed sundry enrolled bills and an enrolled resolu-

tion, I am instructed to lay the same before the Senate, for the signature of their Speaker.

And then he withdrew.

Whereupon the Speaker signed the said bills and resolution, being the same reported to day by Mr. Williams, and they were delivered to the joint committee of enrolments, to be laid before the governor for his approbation and signature.

And after some time, Mr. Williams, from said committee, reported that they had performed that duty.

The following bills were reported, to wit:

By Mr. Carpenter—A bill to regulate sales of real estate by the collector of the town tax of Bardstown.

And by Mr. Pope—A bill to alter and fix the terms of the Jefferson circuit court, and for other purposes.

Which were severally read the first time. The rule being dispensed with, they were read the second time; and having been engrossed, were read a third time.

Resolved, That the said bills do pass, and that the titles be, respectively, "an act to regulate sales of real estate by the collector of the town tax of Bardstown," and "an act to alter and fix the terms of the Jefferson circuit court, and for other purposes."

Ordered, That the clerk do carry the former bill, and Mr. Pope the latter to the house of representatives, and request their concurrence.

The Speaker laid before the senate the following communication, to wit:

LOUISVILLE, 27th Nov. 1821.

*To the honorable the Speaker
of the Senate of Kentucky:*

HAVING been recently elected by the people of this district, to represent them in congress, it becomes necessary to resign the office of President of the Branch Bank of the Commonwealth of Kentucky, established at this place; which you will be pleased to communicate to the body over which you preside.

In closing this communication, I beg leave to make my respectful acknowledgments for the confidence reposed in me by the legislature. I am sure it has not been abused; and that the directory of this branch, in the distribution of its funds, has entered fully into the beneficent views of the legislature in establishing the institution.

I have the honor to be, with great respect,

Your obedient servant,

J. D. BRECKINRIDGE.

The senate received information by Mr. Anderson, that the governor did, on to day, approve and sign sundry enrolled bills which originated in the senate, of the following titles, to wit: An act to remove the seat of justice of Owen county; an act for the benefit of the sheriff of Caldwell county; an act to legalize the proceedings of the Floyd county court; an act authorising the keeper of the penitentiary to build a smoke house; an act for the benefit of the heirs of Patrick H. Rice; an act authorising the keepers of turnpike gates to take up strays.

Ordered, That the clerk inform the house of representatives thereof.

Mr. Lackey presented the petition of Holly Power, praying that a law may be passed to legalize his marriage with Polly Montgomery; which was read and referred to messrs. Lackey, Roper and Ward, with leave to report by bill or otherwise.

Ordered, That the committee of the whole house on the state of the commonwealth be discharged from the further consideration of a bill providing for laying off the land west of the Tennessee river into counties.

The bill was amended at the clerk's table.

Mr. White moved the following resolution, to wit:

Resolved, That the bill establishing counties south and west of the Tennessee river, be re committed to a select committee, with instructions to report the bill back to the house establishing one more county, by designated boundaries, and by striking out so much of the bill as organizes, at present, more than one county, giving them the powers of self government.

And the question being taken thereon, it was resolved in the affirmative—Yeas 18, nays 17.

The yeas and nays being required thereon by messrs. Beauchamp and Throckmorton, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Ballinger, Barbee, Bowman, Bowmar, Carpenter, Faulkner, Flournoy, Ford, Gorin, J. L. Hickman, Jones, Marshall, Pickett, Roper, Smith, Throckmorton, White and Worthington.

Those who voted in the negative, are, messrs. Beauchamp, Carneal, Crutcher, Davidson, Dawson, Ewing, Given, R. Hickman, Lackey, M'Afee, Mountjoy, Owens, Pope, Slaughter, Ward, Weir and Williams.

Whereupon messrs. White, Given and M'Afee were appointed a committee.

Engrossed bills, to wit: A bill forming a new county out of the counties of Floyd and Greenup, and a bill providing for the repairing and improving of the penitentiary, were severally read a third time.

The former was committed to messrs. Ward, Lackey and Pickett.

Resolved, That the latter bill do pass, and that the title be "an act providing for the repairing and improving of the penitentiary."

Ordered, That mr. Jones do carry said bill to the house of representatives and request their concurrence.

A message from the house of representatives, by mr. Wickliffe:

Mr. Speaker—The house of representatives concur in the amendments proposed by the senate, upon concurring in those made by the house of representatives to a bill from the senate, entitled "an act for the relief of certain sheriffs." They concur in the amendments proposed by the senate, to a bill entitled "an act for the benefit of the clerk of the circuit and county courts of Cumberland," with amendments. They have passed a bill from the senate, entitled "an act to change the March term of the Madison circuit court." And they have passed bills of the following titles, to wit: An act to ascertain and mark the division line between the counties of Grant, Boone and Gallatin; an act authorising the county courts of Bracken, Mason and Fayette to purchase and erect buildings for the accommodation of their poor; and an act to legalize the proceedings of the Nelson county court, at their November term 1821; in which amendments and bills they request the concurrence of the senate.

And then he withdrew.

The amendments proposed by the house of representatives to a bill entitled "an act to prevent horse racing on the public highways," were taken up, twice read and concurred in.

Ordered, That the clerk inform the house of representatives thereof.

The amendment proposed by the house of representatives to a bill entitled "an act to increase and regulate the judicial districts," was taken up and read as follows, to wit:

Strike out the whole of the bill, after the enacting clause, and insert—

"The first judicial district shall be composed of the counties of Fleming, Mason, Lewis and Bracken.

The second district shall be composed of the counties of Nicholas, Harrison, Pendleton, Campbell, Grant and Boone.

The third district shall be composed of the counties of Fayette, Scott and Owen.

The fourth district shall be composed of the counties of Franklin, Shelby, Henry and Gallatin.

The fifth district shall be composed of the county of Jefferson.

The sixth district shall be composed of the counties of Logan, Warren, Allen, Simpson, Butler and Todd.

The seventh district shall be composed of the counties of Christian, Livingston, Caldwell, Trigg, and the county or counties to be formed below Tennessee river.

The eighth district shall be composed of the counties of Green, Adair, Cumberland, Monroe, Barren and Hart.

The ninth district shall be composed of the counties of Washington, Mercer, Jessamine and Woodford.

The tenth district shall be composed of the counties of Bourbon, Clarke, Madison and Estill.

The eleventh district shall be composed of the counties of Montgomery, Bath, Floyd and Greenup.

The twelfth district shall be composed of the counties of Garrard, Lincoln, Casey, Wayne and Pulaski.

The thirteenth district shall be composed of the counties of Nelson, Hardin, Bullitt and Grayson.

The fourteenth district shall be composed of the counties of Breckinridge, Ohio, Muhlenberg, Daviess, Henderson, Hopkins and Union.

The fifteenth district shall be composed of the counties of Rockcastle, Clay, Perry, Harlan, Knox and Whitley."

Mr. Flournoy moved to detach the county of Owen from the third district; and the question being taken thereon, it was resolved in the negative—Yeas 10, nays 24.

The yeas and nays being required thereon, by messrs. Flournoy and Throckmorton, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Beauchamp, Carpenter, Faulkner, Flournoy, J. L. Hickman, R. Hickman, Smith, Weir, Williams and Worthington.

Those who voted in the negative, are, messrs. Ballinger, Barbee, Bowman, Bowmar, Carneal, Crutcher, Davidson, Dawson, Ewing, Ford, Given, Gorin, Jones, Marshall, M'Affee, Mountjoy, Owens, Pickett, Pope, Roper, Slaughter, Throckmorton, Ward and White.

Mr. Beauchamp then moved to detach the county of Woodford from the ninth district; and the question being taken thereon, it was resolved in the negative—Yeas 6, nays 28.

The yeas and nays being required thereon by messrs. Beauchamp and Flournoy, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Beauchamp, Carpenter, Flournoy, Marshall, Smith and Worthington.

Those who voted in the negative, are, messrs. Ballinger, Barbee, Bowman, Bowmar, Carneal, Crutcher, Davidson, Dawson, Ewing, Faulkner, Ford, Given, Gorin, J. L. Hickman, Jones, Lackey, M'Afee, Mountjoy, Owens, Pickett, Pope, Roper, Slaughter, Throckmorton, Ward, Weir, White and Williams.

The question was then taken upon concurring in the amendment, and it was resolved in the affirmative—Yeas 28, nays 7.

The yeas and nays being required thereon by messrs. Beauchamp and Throckmorton, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Barbee, Bowman, Bowmar, Carneal, Crutcher, Davidson, Ewing, Faulkner, Ford, Given, Gorin, J. L. Hickman, Jones, Lackey, Marshall, M'Afee, Mountjoy, Owens, Pickett, Pope, Roper, Slaughter, Throckmorton, Ward, White and Williams.

Those who voted in the negative, are, messrs. Beauchamp, Carpenter, Dawson, Flournoy, Smith, Weir and Worthington.

Ordered, That Mr. Crutcher inform the house of representatives thereof.

A message from the house of representatives, by Mr. Luckett:

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled "an act to alter and fix the terms of the Jefferson circuit court, and for other purposes."

And then he withdrew.

Mr. Lackey, from the select committee to whom was referred the petition of Holly Power, reported a bill for the benefit of his wife, Polly Power; which was read the first time.

The rule being dispensed with, it was read a second time; and having been engrossed, was read a third time.

Resolved, That the said bill do pass, and that the title be "an act for the benefit of Polly Power."

Ordered, That mr. Lackey do carry said bill to the house of representatives and request their concurrence.

The speaker laid before the senate a letter from William Hunter, covering the memorial of William Hunter, Thomas V. Loofbourrow, Allen E. Macurdy, George Baltzell and Thomas W. Jones, praying that the state may refund to them the sums of money they severally paid towards rebuilding the capitol; which was read and referred to the committee for courts of justice.

And then the senate adjourned.

SATURDAY, DECEMBER 1, 1821.

The senate assembled.

Mr. Ballinger, from the joint committee of enrolments, reported that they had examined sundry enrolled bills of the following titles, to wit: An act for the relief of certain sheriffs; an act to prevent horse racing on the public highways; an act to change the March term of the Madison circuit court; an act to increase and regulate the judicial districts; an act to alter and fix the terms of the Jefferson circuit court, and for other purposes; and had found the same truly enrolled.

A message from the house of representatives, by Mr. Yantis:

Mr. Speaker—The Speaker of the house of representatives having signed sundry enrolled bills, I am instructed to lay the same before the Senate, for the signature of their Speaker.

And then he withdrew.

Whereupon the Speaker signed the said bills, being the same reported to day by Mr. Ballinger, and they were delivered to the joint committee of enrolments, to be laid before the governor for his approbation and signature.

And after some time, Mr. Ballinger, from said committee, reported that they had performed that duty.

Mr. Roper presented the petition of William Mayo, praying that he may be authorised to survey a treasury warrant entry made below the Tennessee river; which was read and referred to the committee for courts of justice.

Mr. Jones moved the following resolution:

Resolved by the Senate, That hereafter the order of adjournment shall be to 9 o'clock A. M.

Which was adopted.

A message from the house of representatives, by Mr. Coshby :

Mr. Speaker—The house of representatives concur in the amendments made by the senate to bills of the following titles : An act for the benefit of Jesse Walker and others; and an act for the benefit of Samuel Simpson and others.

And then he withdrew.

On the motion of Mr. Owens, leave was given to bring in a bill authorising the sale of part of the real estate of Charles Reaville, deceased; and messrs. Owens, Lackey and M'Affee were appointed a committee to prepare and bring it in.

Mr. M'Affee, from the select committee to whom was referred a bill to promote education, reported the same with an amendment in lieu of the bill.

Mr. Faulkner moved to lay the bill and amendment on the table until the first day of March next; and the question being taken thereon, it was resolved in the negative—Yeas 14, nays 21.

The yeas and nays being required thereon by messrs. White and Carneal, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Beauchamp, Carpenter, Davidson, Dawson, Faulkner, Ford, Given, Gorin, R. Hickman, Jones, Owens, Smith, Ward and Williams.

Those who voted in the negative, are, messrs. Anderson, Ballinger, Barbee, Bowman, Bowmar, Carneal, Crutcher, Ewing, J. L. Hickman, Lackey, Marshall, M'Affee, Mountjoy, Pickett, Pope, Roper, Slaughter, Throckmorton, Weir, White and Worthington.

Mr. Owens moved the following resolution, to wit :

Resolved, That the bill to promote education, with the amendments, be committed to a select committee, with instructions to appropriate one third of the dividends of the Commonwealth's Bank to the establishment of free schools in the several counties in this state.

And the question being taken thereon, it was resolved in the negative—Yeas 10, nays 25.

The yeas and nays being required thereon, by messrs. Owens and Throckmorton, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Ballinger, Beauchamp, Bowman, Crutcher, Dawson, Lackey, Mountjoy, Owens, Smith and Weir.

Those who voted in the negative, are, messrs. Anderson, Barbee, Bowmar, Carneal, Carpenter, Davidson, Ewing,

Faulkner, Ford, Given, Gorin, J. L. Hickman, R. Hickman, Jones, Marshall, M'Affee, Pickett, Pope, Roper, Slaughter, Throckmorton, Ward, White, Williams and Worthington.

Mr. Marshall then moved to amend the bill by attaching thereto the following section, to wit:

That one third of the dividends accruing from the Bank of the Commonwealth of Kentucky and branches, be set apart for the purpose of establishing free schools in the several counties in this state; and the president and directors of said institution and branches, are hereby directed to reloan said dividends, upon good security, until provision be made for the application thereof to the purposes aforesaid.

And the question being taken thereon, it was resolved in the affirmative—Yeas 23, nays 12.

The yeas and nays being required thereon by messrs. Anderson and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Barbee, Beauchamp, Bowman, Bowmar, Carneal, Crutcher, Dawson, Ewing, Gorin, J. L. Hickman, Marshall, M'Affee, Owens, Pickett, Pope, Roper, Slaughter, Throckmorton, Weir, White and Worthington.

Those who voted in the negative, are, messrs. Carpenter, Davidson, Faulkner, Ford, Given, R. Hickman, Jones, Lackey, Mountjoy, Smith, Ward and Williams.

The amendment as amended was then concurred in, and the bill as amended ordered to be engrossed and read a third time.

The bill having been engrossed, and the rule being dispensed with, it was read a third time.

The question was then taken on the passage thereof, and it was resolved in the affirmative—Yeas 24, nays 11.

The yeas and nays being required thereon by messrs. R. Hickman and Throckmorton, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Barbee, Beauchamp, Bowman, Bowmar, Carneal, Crutcher, Ewing, Gorin, J. L. Hickman, Jones, Lackey, Marshall, M'Affee, Owens, Pickett, Pope, Roper, Slaughter, Throckmorton, Weir, White and Worthington.

Those who voted in the negative, are, messrs. Carpenter, Davidson, Dawson, Faulkner, Ford, Given, R. Hickman, Mountjoy, Smith, Ward and Williams.

Resolved, That the said bill do pass, and that the title be "an act to provide for the establishment of free schools."

Ordered, That Mr. White do carry said bill to the house of representatives and request their concurrence.

On motion of Mr. Beauchamp.

Ordered, That the committee of the whole house on the state of the commonwealth be discharged from the further consideration of a bill to prevent swindling; and the same was committed to messrs. Beauchamp, Pope and Davidson.

A message from the house of representatives, by Mr. Cowan:

Mr. Speaker—The house of representatives concur in the amendments made by the senate to resolutions for appointing joint committees to examine the reports of the Bank of the Commonwealth and its branches.

And then he withdrew.

The senate received information by Mr. Anderson, that the governor did on this day approve and sign sundry enrolled bills which originated in the senate, of the following titles, to wit: An act for the relief of certain sheriffs; an act to change the March term of the Madison circuit court; an act to increase and regulate the judicial districts; an act to prevent horse racing on the public highways, and an act to alter and fix the terms of the Jefferson circuit court, and for other purposes.

Ordered, That the clerk inform the house of representatives thereof.

The following bills were reported from the select committees to whom they were referred, to wit:

By Mr. White—A bill to establish counties on the south west of the Tennessee river.

And by Mr. Ward—A bill forming a new county out of parts of the counties of Floyd and Greenup.

Severally with amendments, which were concurred in with amendments to those of the latter, and the bills were ordered to be engrossed and read a third time.

The latter bill having been engrossed, and the rule dispensed with, it was read a third time.

Resolved, That the said bill do pass, and that the title be "an act forming the county of Lawrence, out of parts of the counties of Greenup and Floyd."

Ordered, That Mr. Ward do carry said bill to the house of representatives and request their concurrence.

Mr. Mountjoy, from the select committee to whom was referred certain military nominations, made the following report, to wit:

The committee to whom was referred the nominations of Michael Flinn, as lieutenant colonel, and Edward Young, major of the 36th regiment of Kentucky militia, have come to the following resolution thereupon, to wit:

Resolved, That the senate ought not to advise and consent to said appointments.

And then the senate adjourned.

MONDAY, DECEMBER 3, 1821.

The senate assembled.

Mr. Lackey presented the petition of William J. Mayo and Richard R. Lee, praying that a law may be passed authorising the sale of a lot belonging to Alexander Dunbar, deceased; which was read and referred to messrs. Lackey, Roper and Pickett, with leave to report by bill or otherwise.

A message from the house of representatives, by Mr. Clark:

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled “an act concerning the qualification of the president and directors of the Bank of Kentucky on the part of the state.

And then he withdrew.

The following resolution from the house of representatives, was taken up and read as follows, to wit:

IN THE HOUSE OF REPRESENTATIVES, Nov. 27, 1821.

Resolved by the General Assembly of the Commonwealth of Kentucky, That they will, on Monday the 3d of December next, proceed to the election of a treasurer and public printer, a president and directors for the Bank of the Commonwealth of Kentucky and the branches of said bank, also a president and directors of the Bank of Kentucky and trustees to the Transylvania University.

Extract, &c.

R. S. TODD, C. H. R.

The resolution being amended by striking out *Monday the 3d of December next*, and inserting *Wednesday the 12th instant*, was concurred in.

Ordered, That Mr. Pope inform the house of representatives thereof and request their concurrence in the amendment.

The following bills were reported:

By Mr. Beauchamp—1. A bill to provide for the sale of the real estate of Thomas Davis, deceased.

By Mr. Williams—2. A bill altering the time of holding the Bath circuit court. And 3. a bill for the benefit of Marius Thomas.

By Mr. Owens—4. A bill to prevent the judges of the court of appeals and circuit courts from practising as counsel or attorneys, and for other purposes.

By Mr. Lackey—5. A bill to authorise the sale of part of the real estate of Alexander Dunbar, deceased.

Which were severally read the first time and ordered to be read a second time.

The rule being dispensed with, the 1st, 2d, 4th and 5th bills were severally read a second time.

The first was committed to Messrs. Carpenter, Beauchamp and Carneal.

The second and fifth bills were ordered to be engrossed and read a third time.

Mr. Jones moved to lay the fourth bill on the table until the first day of March next.

The question being taken thereon, it was resolved in the affirmative—Yeas 19, nays 15.

The yeas and nays being required thereon by Messrs. Owens and Jones, were as follows, to wit:

Those who voted in the affirmative, are, Messrs. Anderson, Barbee, Bowman, Carpenter, Davidson, Faulkner, Ford, Given, J. L. Hickman, R. Hickman, Jones, Lackey, Pickett, Roper, Slaughter, Throckmorton, Ward, Williams and Worthington.

Those who voted in the negative, are, Messrs. Ballinger, Beauchamp, Carneal, Crutcher, Dawson, Ewing, Flournoy, Gorin, Marshall, M'Affee, Mountjoy, Owens, Pope, Weir and White.

The fifth bill having been engrossed, and the rule being again dispensed with, it was read a third time.

Resolved, That the said bill do pass, and that the title be "an act to authorise the sale of part of the real estate of Alexander Dunbar, deceased."

Ordered, That Mr. Lackey do carry said bill to the house of representatives and request their concurrence.

On motion of Mr. Marshall.

Ordered, That the committee of the whole house on the state of the commonwealth be discharged from the further consideration of a bill to add a fourth judge to the court of appeals, and for other purposes.

And the bill being amended at the clerk's table, the question was taken on engrossing the same, and it was resolved in the affirmative—Yeas 22, nays 10.

The yeas and nays being required thereon by messrs. Marshall and Throckmorton, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Barbee, Beauchamp, Carneal, Carpenter, Crutcher, Davidson, Ewing, Flournoy, Given, Gorin, Lackey, Marshall, M'Afee, Mountjoy, Pickett, Pope, Roper, Slaughter, Ward and White.

Those who voted in the negative, are, messrs. Bowman, Dawson, Faulkner, Ford, R. Hickman, Jones, Throckmorton, Weir, Williams and Worthington.

The said bill having been engrossed, and the rule being again dispensed with, the bill was read a third time.

Resolved, That the said bill do pass, and that the title be "an act to add a fourth judge to the court of appeals, and for other purposes."

Ordered, That mr. Davidson do carry said bill to the house of representatives and request their concurrence.

The report of the select committee to whom were referred the nominations of Michael Flinn, as lieutenant colonel, and Edward Young, major of the 36th regiment of Kentucky militia, was taken up.

Mr. Crutcher moved to amend the resolution, by striking out the word "not;" and the question being taken thereon, it was resolved in the affirmative—Yeas 18, nays 10.

The yeas and nays being required thereon by messrs. Crutcher and Throckmorton, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Barbee, Beauchamp, Crutcher, Dawson, Ewing, Ford, Given, Gorin, J. L. Hickman, R. Hickman, Jones, Lackey, Pope, Slaughter, Throckmorton and Worthington.

Those who voted in the negative, are, messrs. Carpenter, Faulkner, Flournoy, M'Afee, Mountjoy, Pickett, Roper, Ward, Weir and Williams.

The resolution, as amended, was then concurred in.

Ordered, That messrs. Williams and Throckmorton inform the governor thereof.

Leave was given to bring in the following bills, to wit:

On the motion of mr. White—A bill to regulate the time of holding the courts in the fourth judicial district.

And on the motion of mr. Carneal—A bill to regulate the time of holding the courts in the second judicial district.

Messrs. White, Marshall and Ford were appointed a committee to prepare and bring in the former, and messrs. Carneal, Throckmorton, Mountjoy and Perrin the latter.

A message from the house of representatives, by Mr. King:

Mr. Speaker—The house of representatives have passed a bill entitled "an act for the benefit of the widow and heirs of John Anderson, deceased;" in which they request the concurrence of the senate.

And then he withdrew.

Resolved by the Senate, That the sergent at arms be requested forth with to cause the grave of the late Col. Thomas Dollerhide to be well enclosed.

The amendments proposed by the house of representatives, upon concurring in those proposed by the senate, to a bill entitled "an act for the benefit of the clerk of the circuit and county courts of Cumberland," were taken up and concurred in.

The amendments proposed by the house of representatives, to a bill entitled "an act to amend the militia law," were taken up and concurred in with amendments.

Ordered, That Mr. M'Fee inform the house of representatives thereof, and request their concurrence in the amendments.

A message from the house of representatives, by Mr. Cowan:

Mr. Speaker—The house of representatives have passed bills from the senate, of the following titles, to wit: An act to extend the limits of the town of Princeton, to legalize the proceedings of the trustees thereof and give them additional powers, and for other purposes; an act to amend an act entitled "an act for the benefit of Daniel Trabue and others;" an act for the benefit of Polly Power; an act to amend an act entitled "an act to amend an act directing certain surveyors to transcribe certain entry books;" and an act to revive the law providing for the appointment of commonwealth's attorneys; with an amendment to the latter. And they have passed bills of the following titles, to wit: An act for the benefit of the heirs of Stephen Langford and James White, and an act to amend the law allowing compensation to venire-men and witnesses; in which amendment and bills they request the concurrence of the senate.

And then he withdrew.

The amendment was taken up, twice read and concurred in.

Ordered, That the clerk inform the house of representatives thereof.

Engrossed bills, to wit: A bill to amend an act entitled "an act to amend the penal laws," and a bill to amend the act regulating divorces, were severally read a third time.

Resolved, That the former bill do pass, and that the title be "an act declaring the punishment of free white male persons found guilty of petit larceny."

Ordered, That the clerk do carry said bill to the house of representatives and request their concurrence.

The latter bill was committed to messrs. Crutcher, Marshall and White.

Bills from the house of representatives, of the following titles, to wit: An act for the benefit of the heirs of Stephen Russell, deceased, and an act to authorise the county court of Henderson to sell one acre of the public square in the town of Henderson, were severally read a third time.

Resolved, That the said bills do pass, and that the clerk inform the house of representatives thereof.

A bill to change the time of the annual meeting of the legislature, was read a second time and committed to messrs. Crutcher, Bowman and Pope.

Mr. Gorin read and laid on the table a resolution relative to nominations of the presidents and directors of the Bank of Kentucky and the Bank of the Commonwealth.

And then the senate adjourned.

TUESDAY, DECEMBER 4, 1821.

The senate assembled.

Mr. Pope presented the petition of Paul Villemiot, an alien, praying that he may be authorised to hold real estate; which was read and referred to messrs. Pope, Gorin and Bowman, with leave to report by bill or otherwise.

Mr. Ballinger, from the joint committee of enrolments, reported that they had examined sundry enrolled bills of the following titles, to wit: An act to amend an act entitled "an act to amend an act directing certain surveyors to transcribe certain entry books;" an act for the benefit of Polly Power; an act concerning the qualification of the president and directors of the Bank of Kentucky on the part of the state; an act to amend an act entitled "an act for the benefit of Daniel Trabue and others;" an act to add a part of Logan county to the county of Todd; an act to regulate appeals from justices of the peace to the county courts; an act for the benefit of Jesse Walker and others; an act

for the benefit of Samuel Simpson and others; an act to revive the law providing for the appointment of commonwealth's attorneys; and had found the same truly enrolled.

Mr. M'Afee, from the committee for courts of justice, to whom was referred a bill for the benefit of Peter Watts and John Curd's heirs, reported the same without amendment; and the same having been engrossed, was read a third time.

Resolved. That the said bill do pass, and that the title be "an act for the benefit of Peter Watts and John Curd's heirs."

Ordered. That mr. M'Afee do carry said bill to the house of representatives and request their concurrence.

Mr. Beauchamp, from the select committee to whom was referred a bill to revive the laws against champerty and maintainance, reported the same without amendment, and the bill was ordered to be engrossed and read a third time.

Mr. Crutcher, from the select committee to whom was referred a bill to change the time of the annual meeting of the legislature, reported the same with an amendment, which was read as follows, to wit:

That the members of the legislature shall hereafter receive for their services one dollar in addition to the wages now allowed by law.

And the question being taken thereon, it was resolved in the negative—Yeas 10, nays 24.

The yeas and nays being required thereon by messrs. Smith and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Ballinger, Beauchamp, Bowman, Crutcher, Dawson, Ewing, M'Afee, Perrin, Pickett and Slaughter.

Those who voted in the negative, are, messrs. Anderson, Barbee, Bowmar, Carpenter, Davidson, Faulkner, Flournoy, Ford, Given, Gorin, J. L. Hickman, R. Hickman, Jones, Lackey, Mountjoy, Pope, Roper, Smith, Throckmorton, Ward, Weir, White, Williams and Worthington.

Mr. Flournoy then moved the following amendment:

That the future wages, of the legislature shall be one dollar and fifty cents per day, each, to take effect from and after the close of the present session.

And the question being taken thereon, it was resolved in the negative—Yeas 2, nays 30.

The yeas and nays being required thereon, by messrs. Flournoy and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Ballinger and Smith.

Those who voted in the negative, are, messrs. Anderson, Barbee, Beauchamp, Bowman, Bowmar, Carpenter, Crutcher, Davidson, Dawson, Ewing, Faulkner, Flournoy, Ford, Given, Gorin, J. L. Hickman, R. Hickman, Jones, Lackey, M'Afee, Mountjoy, Perrin, Pope, Roper, Slaughter, Throckmorton, Ward, Weir, White and Worthington.

The question being taken on engrossing and reading the bill a third time, it was resolved in the negative; and so the said bill was rejected.

Mr. Crutcher, from the select committee to whom was referred a bill to amend the act regulating divorces, reported the same without amendment. The same was then re-committed to messrs. Jones, Perrin and Flournoy; and after some time, was reported with an amendment, which was concurred in; and the bill having been re-engrossed, was read again.

Resolved, That the said bill do pass, and that the title be "an act to amend an act regulating divorces."

Ordered, That the clerk do carry said bill to the house of representatives and request their concurrence.

On motion of Mr. Ward, leave was given to bring in a bill to amend the law relative to lunatics; and messrs. Ward, Worthington and Given were appointed a committee to prepare and bring it in.

Mr. Beauchamp moved for leave to bring in a bill supplemental to an act to increase and regulate the judicial districts; and the question being taken thereon, it was resolved in the negative, and so the said motion was rejected.

Ordered, That the committee of the whole house on the state of the commonwealth be discharged from the further consideration of a bill to endow the Transylvania University and the Centre College of Kentucky; and the same was committed to messrs. M'Afee, Carpenter and Flournoy.

The lieutenant governor appeared and resumed the duties of the chair.

A message from the house of representatives, by Mr. Yantis:

Mr. Speaker—The Speaker of the house of representatives having signed sundry enrolled bills, I am instructed to lay the same before the Senate, for the signature of their Speaker.

And then he withdrew.

Whereupon the Speaker signed the said bills, being the same reported to day by Mr. Ballinger, and they were de-

livered to the joint committee of enrolments, to be laid before the governor for his approbation and signature.

And after some time, Mr. Ballinger, from said committee, reported that they had performed that duty.

The resolutions relative to a general bankrupt law, were taken up; and the question being taken on the adoption thereof, it was resolved in the negative—Yeas 10, nays 26.

The yeas and nays being required thereon by messrs. Throckmorton and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Ballinger, Bowman, Bowmar, Carneal, Ewing, Gorin, M'Afee, Owens, Ward and White.

Those who voted in the negative, are, messrs. Anderson, Barbee, Beauchamp, Carpenter, Crutcher, Davidson, Dawson, Faulkner, Flournoy, Ford, Given, J. L. Hickman, R. Hickman, Jones, Lackey, Mountjoy, Perrin, Pickett, Pope, Roper, Slaughter, Smith, Throckmorton, Weir, Williams and Worthington.

A message from the house of representatives, by Mr. Cosby:

Mr. Speaker—The house of representatives have passed bills from the senate of the following titles, to wit: An act to encourage the publication of a Digest of the Statute Law of Kentucky, and an act to amend an act establishing a seminary in Rockcastle county, with amendments to the latter. And they have passed bills of the following titles, to wit: An act for the benefit of Joel Morrison, and an act for the benefit of the widow and heirs of John Willitt, deceased; in which amendments and bills they request the concurrence of the senate.

And then he withdrew.

A bill from the house of representatives, entitled "an act for the benefit of the heirs of Stephen Langford and James White," was read the first time.

The rule being dispensed with, it was read a second time and committed to the committee for courts of justice.

The bill to amend the law concerning executions, was then taken up. The amendment proposed by the select committee was further amended at the clerk's table, and read as follows, to wit:

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky.* That all laws which authorise a *compas ad satisfaciendum* to be issued against the body or bodies of any debtor or debtors, shall be, and the same are hereby repealed.

Sec. 2. Hereafter no person or persons shall be arrested upon any original or mesne process, or required to give bail, unless upon an affidavit being filed with the clerk of the court or justice of the peace from which such process is to be issued, stating that the plaintiff or plaintiffs verily believes that the person or persons against whom such process is about to issue, will leave this commonwealth, or remove his property out of the same, before judgment, or otherwise abscond, so that the process of the court, after judgment, cannot be executed; and upon such affidavit being filed, the clerk shall endorse, that bail is required, and in what sum.

Sec. 3. From and after the passage of this act, any person or persons who may have been committed to close jail, or to the bounds, upon order requiring bail, or upon any *capias ad satisfaciendum*, may, upon giving reasonable notice of such application, to the person or persons at whose suit he or they may have been committed, or to his, her or their agent or attorney in fact or at law, if any such may be in the county, if not, upon filing notice in like manner in the office of the clerk of the court whence such process issued, apply to a justice of the peace for his discharge; and upon such justice being satisfied that the person or persons so applying, is or are confined upon civil process, the said justice shall issue an order to the jailer, to discharge such person or persons from custody; and upon such person or persons being discharged under the provisions of this act, the plaintiff or plaintiffs, or person or persons beneficially interested in said demand, in the execution of which the person or persons so discharged may have been in custody, may have a new execution against the property of such person or persons so discharged, without suing out a *scire facias* to revive his judgment.

Sec. 4. When any person or persons arrested under an order requiring bail, or a writ of *ne exeat*, shall desire to be discharged from custody, by taking the oath prescribed by the acts for the benefit of insolvent debtors, it shall be lawful for such person or persons, upon giving reasonable notice to the party at whose suit he or they were arrested, his agent or attorney, if in the county, if not, upon filing such notice in the office from which was issued the process by virtue of which he or they may be in custody, of the time and place of such application, to apply to a justice of the peace for his or their discharge; and upon rendering a schedule of his or their property, and taking the oath aforesaid, the justice of the peace shall issue an order to the officer in whose custo-

dy such person or persons may be, to discharge him or them; and the property contained in such schedule, shall be vested and disposed of in the same manner, and the same proceedings shall be had thereon as are now authorised in the case of insolvent debtors.

Sec. 5. When any estate, real, personal or mixed, is held or covered by mortgage, deed of trust or other incumbrance, all the right, title and interest which the mortgagor or grantor has in said estate, shall be subject to execution and sale, in the same manner as estate of the like kind now is, when the owner thereof has a legal title to the same; and the purchaser or purchasers shall take said estate subject to the *bona fide* lien or claim which the mortgagee, *cestui qui use* or other claimant may have upon said estate; and the sheriff or other officer making sale thereof, shall convey to the purchaser or purchasers thereof, all the right, title and interest which the defendant or defendants in the execution may have to the same: *Provided, however,* that when any mortgaged or trust estate as aforesaid, in lands or tenements, shall be sold under execution, the mortgagor or mortgagee, grantor of the trust or trustee, *cestui qui trust* or other person to whom a beneficial interest may have been reserved out of such estate, may redeem the whole or any part of the same, at any time within two years from and after such sale, by paying to the purchaser or purchasers of such estate, or any part thereof, his, her or their purchase money and interest, in money equivalent in value to that for which the property sold for at the day of sale: *And provided,* that when the estate sold as aforesaid is personal and moveable, the purchaser or purchasers of such personal property shall give bond, with good and sufficient security, to be approved of by the officer making the sale, in the full amount of the value of the property sold, conditioned not to remove said property, or any part thereof, out of the state, nor otherwise dispose of the same, until he, she or they shall pay off the mortgage, satisfy the trust or discharge any other incumbrance to which said property was liable and subject at the time of the sale. Said bond shall be made payable to the commonwealth of Kentucky, and shall be returned to the office from which the execution issued, by virtue of which the property was sold; and upon the condition of said bond being broken, the party injured by such breach may sue for the same, in the like manner as suits are authorised to be maintained upon other public bonds, or offi-

cers' bonds; and the said bond may be sued upon as often as the condition thereof shall be broken.

Sec. 6. Whenever an execution of *fiery facias*, founded upon a judgment or decree, or upon any bond having the force of a judgment, shall issue to the proper officer, and be returned, as to the whole or any part thereof, in substance, that the defendant hath no effects in his bailiwick to satisfy the same, the proper court or courts of chancery shall have jurisdiction, on bill filed, to subject to the satisfaction of such judgment, decree or bond, any choses in action belonging to the debtor, and also any equitable or legal interest in any estate, real, personal or mixed, which the debtor may be entitled to; and to that end may bring other parties before the court, and make such decree as may be equitable, under the jurisdiction hereby conferred: *Provided*, that nothing in this act contained shall be construed to extend to those articles in possession of a defendant, which are exempted by law from execution.

And the question being taken upon concurring in said amendment, it was resolved in the affirmative—Yeas 27, nays 10.

The yeas and nays being required thereon by messrs. Pope and Jones, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Barbee, Bowmar, Carneal, Carpenter, Crutcher, Davidson, Dawson, Flourney, Ford, Given, J. L. Hickman, R. Hickman, Jones, Marshall, M'Affee, Mountjoy, Perrin, Pickett, Roper, Slaughter, Smith, Throckmorton, Ward, Weir, White and Williams.

Those who voted in the negative, are, messrs. Ballinger, Beauchamp, Bowman, Ewing, Faulkner, Gorin, Lackey, Owens, Pope and Worthington.

The said bill was further amended at the clerk's table, and ordered to be engrossed and read a third time.

Mr. Bowmar moved to dispense with the engrossment of the bill, and it was resolved in the affirmative—Yeas 21, nays 16.

The yeas and nays being required thereon by messrs. Owens and Pickett, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Barbee, Beauchamp, Bowmar, Carneal, Crutcher, Dawson, Ewing, Given, R. Hickman, Jones, Marshall, M'Affee, Mountjoy, Perrin, Pope, Slaughter, Throckmorton, Ward, Weir, White and Williams.

Those who voted in the negative, are, messrs. Anderson, Ballinger, Bowman, Carpenter, Davidson, Faulkner, Flournoy, Ford, Gorin, J. L. Hickman, Lackey, Owens, Pickett, Roper, Smith and Worthington.

Mr. Roper moved to reconsider the vote for the engrossment of the bill : which was reconsidered, and the bill further amended at the clerk's table.

The engrossment of the bill was then dispensed with, and it was read a third time.

The question being taken on the passage thereof, it was resolved in the affirmative—Yeas 27, nays 10.

The yeas and nays being required thereon by messrs. Faulkner and Jones, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Barbee, Bowmar, Carneal, Carpenter, Crutcher, Dawson, Ewing, Flournoy, Given, Gorin, R. Hickman, Lackey, Marshall, M'Afee, Mountjoy, Perrin, Pickett, Roper, Slaughter, Smith, Throckmorton, Ward, Weir, White and Williams.

Those who voted in the negative, are, messrs. Beauchamp, Bowman, Davidson, Faulkner, Ford, J. L. Hickman, Jones, Owens, Pope and Worthington.

Resolved, That the said bill do pass, and that the title be "an act to abolish imprisonment for debt and subject equitable interests to execution."

Ordered, That mr. M'Afee do carry said bill to the house of representatives and request their concurrence.

The senate received from the governor, by mr. Anderson, a message in writing, containing certain military nominations.

And then the senate adjourned.

WEDNESDAY, DECEMBER 5, 1821.

The senate assembled.

Mr. Marshall presented the petition of the heirs of Edmund Wooldridge, praying that they may be authorised to survey certain treasury warrant entries below the Tennessee river.

Mr. Marshall also presented the petition of sundry citizens of the counties of Franklin, Mercer and Washington, praying the formation of a new county out of parts of each of said counties.

Which were severally read and referred, the former to the committee for courts of justice, and the latter to the committee of propositions and grievances.

A message from the house of representatives, by Mr. Yantis:

Mr. Speaker—The house of representatives have passed a bill entitled “an act to amend and repeal in part an act entitled an act for establishing and laying off a town at the Iron Banks,” approved December 27, 1820; in which they request the concurrence of the senate.

And then he withdrew.

Leave was given to bring in the following bills, viz.

On the motion of Mr. Mountjoy—A bill for the transcribing certain record books in the county court of Pendleton.”

On the motion of Mr. Perrin—A bill to add a part of Nicholas to Harrison county.

And on the motion of Mr. Bowmar—A bill for the benefit of part of the devisees of Tunstall Quarles, deceased.

Messrs. Mountjoy, Gorin and Bowmar were appointed a committee to prepare and bring in the first, and messrs. Bowmar, Perrin and Jones the third.

On motion, the leave for the second bill was referred to the committee of propositions and grievances.

A message from the house of representatives, by Mr. Howard:

Mr. Speaker—The house of representatives ask leave to withdraw a bill entitled “an act for the benefit of the heirs of Stephen Langford and James White,” which passed that house and was reported to the senate.

And then he withdrew.

Ordered, That the committee for courts of justice be discharged from the further consideration of said bill, and that the same be returned to that house; and that Mr. Jones do carry said message.

Mr. Beauchamp, from the select committee to whom was referred a bill to prevent swindling, reported an amendment in lieu of the bill.

Mr. Roper moved to lay it on the table until the first day of March next; and the question being taken thereon, it was resolved in the negative—Yeas 13, nays 22.

The yeas and nays being required thereon by messrs. Beauchamp and Throckmorton, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Ballinger, Bowman, Bowmar, Carneal, Carpenter, Davidson,

Dawson, Ewing, Mountjoy, Pickett, Roper, Weir and White.

Those who voted in the negative, are, messrs. Anderson, Beauchamp, Crutcher, Faulkner, Flournoy, Ford, Given, Gorin, J. L. Hickman, R. Hickman, Jones, Lackey, Marshall, M'Affee, Perrin, Pope, Slaughter, Smith, Throckmorton, Ward, Williams and Worthington.

The amendment was then concurred in with an amendment, and the bill ordered to be engrossed and read a third time.

A message from the house of representatives, by Mr. Howard :

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled “an act for the benefit of Polly Parker and children,” with an amendment; and they have passed bills of the following titles, to wit: An act for the benefit of Polly Martin, and an act for the benefit of Richard Clark and Samuel Curswell; in which amendment and bills they request the concurrence of the senate.

And then he withdrew.

The amendment was taken up and concurred in.

Ordered, That the clerk inform the house of representatives thereof.

The following bills were reported, to wit :

By Mr. Carpenter—A bill concerning civil proceedings in certain cases.

And by Mr. Pope—A bill for the benefit of Guillianne Marie Paul Villemiot.

Which were severally read the first time. The rule being dispensed with, they were read a second time; and the latter, having been engrossed, was read a third time.

Resolved, That the said bill do pass, and that the title be “an act for the benefit of Guillianne Marie Paul Villemiot.”

Ordered, That Mr. Pope do carry said bill to the house of representatives and request their concurrence.

The former bill was committed to messrs. Carpenter, J. L. Hickman and Marshall; and after some time, Mr. Carpenter reported an amendment in lieu of the bill, which was concurred in and the bill ordered to be engrossed and read a third time.

Mr. Marshall read and laid on the table a resolution for a division of the public printing.

Engrossed bills to wit: A bill for the formation of new counties south-west of the Tennessee river, and a bill to

amend an act regulating jailers' fees, approved January 31, 1818, were severally read a third time and the blanks therein filled.

The question being taken on the passage of the former, it was resolved in the affirmative—Yeas 27, nays 6.

The yeas and nays being required thereon, by messrs. Flournoy and Perrin, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Barbee, Bowman, Bowmar, Carneal, Carpenter, Crutcher, Dawson, Ewing, Ford, Given, Gerin, J. L. Hickman, R. Hickman, Jones, Lackey, M'Affee, Mountjoy, Perrin, Pickett, Slaughter, Smith, Throckmorton, Weir, White, Williams and Worthington.

Those who voted in the negative, are, messrs. Ballinger, Beauchamp, Davidson, Faulkner, Flournoy and Pope.

Resolved, That the said bills do pass, and that the titles be, respectively, "an act forming the counties of Hickman, Graves, Calloway and M'Crackin, on the south-west of the Tennessee river," and "an act to amend an act regulating jailers' fees, approved January 31, 1818."

Ordered, That mr. M'Affee do carry the former bill, and mr. Crutcher the latter to the house of representatives, and request their concurrence.

A message from the house of representatives, by mr. Percy:

Mr. Speaker—The house of representatives have passed bills of the following titles, to wit: An act for the relief of the sheriff of Shelby county, and an act for the relief of Culvin Sanders and Elizabeth Davenport; in which they request the concurrence of the senate.

And then he withdrew.

Mr. Carpenter, from the select committee to whom was referred a bill to provide for the sale of the real estate of Thomas Davis, deceased, reported the same with amendments, which were twice read, concurred in and the bill ordered to be engrossed and read a third time.

Ordered, That mr. Jones be excused from, and mr. Carpenter added to the joint committee, on the part of the senate, raised to examine and report the situation of the penitentiary.

Ordered, That the committee of the whole house on the state of the commonwealth be discharged from the further consideration of resolutions instructing the members in congress from Kentucky, to propose certain amendments to the federal constitution; a bill for the benefit of creditors

and debtors, and a bill to amend the laws in relation to executions.

The resolutions were committed to the committee for courts of justice; the former bill to messrs. Beauchamp, M'Afee, Pope, Bowmar and Flournoy, and the latter to messrs. Jones, Flournoy and M'Afee.

Mr. Ward, from the select committee raised for that purpose, reported a bill to amend the laws in relation to lunacy; which was read the first time and ordered to be read a second time.

Ordered, That a message be sent to the house of representatives, requesting leave to withdraw a bill forming the counties of Hickman, Graves, Calloway and M'Crackin, on the south west of the Tennessee river; and that mr. Ewing carry said message.

A message from the house of representatives, by Mr. Moore:

Mr. Speaker—The house of representatives have passed bills of the following titles, to wit: An act to appoint additional justices of the peace in the counties of Mason and Rockcastle; and an act to alter the place of holding elections in the Eagle precinct in the county of Gallatin, and the Walnut Grove precinct in Mercer county; in which they request the concurrence of the senate.

And then he withdrew.

The amendments proposed by the house of representatives, to a bill entitled "an act to amend an act establishing a seminary in Rockcastle county," were taken up, twice read and concurred in.

Ordered, That the clerk inform the house of representatives thereof.

A message from the house of representatives, by Mr. Warfield:

Mr. Speaker—The house of representatives give leave to withdraw a bill entitled "an act forming the counties of Hickman, Graves, Calloway and M'Crackin, on the south-west of the Tennessee river," agreeably to the request of the senate.

And then he withdrew.

The vote on the passage of said bill was then reconsidered, and it was committed to messrs. Given, Ewing and Roper; who, after some time, reported the bill with an amendment, which was concurred in.

Resolved, That the said bill do pass, and that the title be as aforesaid.

Ordered, That Mr. Ewing do carry said bill to the house of representatives and request their concurrence.

And then the senate adjourned.

THURSDAY, DECEMBER 6, 1821.

The senate assembled.

Mr. Barbee, from the joint committee of enrolments, reported that they had examined sundry enrolled bills of the following titles, to wit: An act to authorise the county court of Henderson to sell one acre of the public square in the town of Henderson; an act for the benefit of the heirs of Stephen Russell, deceased; an act for the benefit of the clerks of the circuit and county courts of Cumberland and Estill, and the surveyor of Casey county; an act to encourage the publication of a Digest of the Statute Law of Kentucky; an act to extend the limits of the town of Princeton, to legalize the proceedings of the trustees thereof and give them additional powers, and for other purposes; an act to amend an act establishing a seminary in Rockcastle county, and for other purposes; an act for the benefit of Polly Parker and children, and for other purposes; and had found the same truly enrolled.

A message from the house of representatives, by Mr. Crawford:

Mr. Speaker—The Speaker of the house of representatives having signed sundry enrolled bills, I am instructed to lay the same before the Senate, for the signature of their Speaker.

And then he withdrew.

Whereupon the Speaker signed the said bills, being the same reported to day by Mr. Barbee, and they were delivered to the joint committee of enrolments, to be laid before the governor for his approbation and signature.

And after some time, Mr. Barbee, from said committee, reported that they had performed that duty.

A message from the house of representatives, by Mr. Pope:

Mr. Speaker—The house of representatives have adopted resolutions concerning the occupying claimant laws, and the decision of the supreme court of the United States thereon; in which they request the concurrence of the senate.

And then he withdrew.

The senate received information, by the secretary of state, that the governor did on yesterday approve and sign sundry enrolled bills which originated in the senate, of the following titles, to wit: An act for the benefit of Polly Power; an act to amend an act entitled an act to amend an act directing certain surveyors to transcribe certain entry books; an act to revive the law providing for the appointment of commonwealth's attorneys; an act concerning the qualification of the president and directors of the Bank of Kentucky on the part of the state; and an act to amend an act entitled an act for the benefit of Daniel Trabue and others.

Ordered, That the clerk inform the house of representatives thereof.

The resolutions from the house of representatives, concerning the Bank of Kentucky and the Bank of the Commonwealth of Kentucky, were taken up and read as follows, to wit:

IN THE HOUSE OF REPRESENTATIVES, NOV. 23, 1821.

1. *Resolved by the General Assembly of the Commonwealth of Kentucky*, That the Bank of Kentucky ought to be permitted, and ought to receive real property mortgaged to them, at a reasonable price, in discharge of debts, in all cases where the principal debtor has no other means of payment.

2. *Resolved*, That the Bank of Kentucky ought to give credit and currency to the paper of the Bank of the Commonwealth, by receiving it in payment of debts and re-issuing it in moderate loans to the people.

3. *Resolved*, That the Bank of the Commonwealth ought, without delay, to lend the balance of the three millions authorized by the act establishing the said bank.

4. *Resolved*, That the Commonwealth's Bank ought to continue moderate calls on its debtors; and that after the first day of August next, the paper of said bank ought to be gradually diminished, at the rate of at least twelve per cent. per annum, and retained in the bank until the said bank shall commence paying specie for its notes.

Extract, &c.—Att.

R. S. TODD, C. H. R.

Mr. Marshall moved to amend the first resolution, by striking out the words "principal debtor has," and insert in lieu thereof the words "debtors have."

And the question being taken thereon, it was resolved in the affirmative—Yeas 28, nays 5.

The yeas and nays being required thereon by messrs. Beauchamp and Throckmorton, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Ballinger, Barbee, Carpenter, Davidson, Ewing, Faulkner, Flournoy, Ford, Given, Gorin, J. L. Hickman, R. Hickman, Jones, Lackey, Marshall, M'Afee, Mountjoy, Perrin, Pickett, Pope, Slaughter, Smith, Throckmorton, Ward, Weir, White, Williams and Worthington.

Those who voted in the negative, are, messrs. Anderson, Beauchamp, Bowman, Crutcher and Dawson.

The first resolution was further amended, and then stricken out.

The question was then taken on the adoption of the second resolution, and it was resolved in the affirmative—Yeas 30, nays 4.

The yeas and nays being required thereon by messrs. Beauchamp and Throckmorton, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Beauchamp, Bowman, Bowmar, Carneal, Crutcher, Dawson, Ewing, Faulkner, Flournoy, Ford, Given, Gorin, J. L. Hickman, R. Hickman, Jones, Lackey, Marshall, M'Afee, Mountjoy, Pickett, Roper, Slaughter, Smith, Throckmorton, Ward, Weir, White and Williams.

Those who voted in the negative, are, messrs. Carpenter, Davidson, Perrin and Pope.

The question was then taken on the adoption of the third resolution, and it was resolved in the affirmative—Yeas 23, nays 1.

The yeas and nays being required thereon by messrs. Faulkner and Anderson, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Beauchamp, Bowman, Bowmar, Carneal, Crutcher, Dawson, Ewing, Given, Gorin, R. Hickman, Lackey, Marshall, M'Afee, Mountjoy, Perrin, Slaughter, Smith, Throckmorton, Ward, Weir, Williams and Worthington.

Those who voted in the negative, are, messrs. Barbee, Carpenter, Davidson, Faulkner, Flournoy, Ford, J. L. Hickman, Jones, Pickett, Pope, Roper and White.

Mr. Beauchamp then moved to strike out the fourth resolution, and it was resolved in the negative—Yeas 4, nays 31.

The yeas and nays being required thereon by messrs. Jones and Slaughter, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Ballinger, Beauchamp, Perrin and Roper.

Those who voted in the negative, are, messrs. Anderson, Barbee, Bowman, Bowmar, Carneal, Carpenter, Crutcher, Davidson, Dawson, Ewing, Faulkner, Flournoy, Ford, Given, Gorin, J. L. Hickman, R. Hickman, Jones, Lackey, M'Afee, Mountjoy, Pickett, Pope, Slaughter, Smith, Throckmorton, Ward, Weir, White, Williams and Worthington.

The said resolution was then concurred in.

Mr. Roper moved to amend the resolutions by attaching thereto the following resolution, to wit:

Resolved. That the branches of the Bank of Kentucky ought to receive and re-loan the paper of the Bank of the Commonwealth of Kentucky, upon the same terms and conditions that may be adopted and pursued at any time by the principal bank; and in case of failure or refusal by any branch to do so, it shall be the duty of the directory of said principal bank forthwith to withdraw such branch, and upon such withdrawal to transfer the books, notes, accounts and effects thereof to the branch nearest that which is withdrawn.

Which was adopted.

Mr. Beauchamp then moved to reconsider the vote striking out the first resolution: which was done accordingly.

Mr. Ewing then moved to reconsider the vote on the amendment to the first resolution, and it was resolved in the negative—Yeas 15, nays 21.

The yeas and nays being required thereon by messrs. Faulkner and Throckmorton, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Ballinger, Beauchamp, Bowman, Bowmar, Carneal, Crutcher, Dawson, Marshall, M'Afee, Pickett, Pope, Roper, Slaughter, Weir and Worthington.

Those who voted in the negative, are, messrs. Anderson, Barbee, Carpenter, Davidson, Ewing, Faulkner, Flournoy, Ford, Given, Gorin, J. L. Hickman, R. Hickman, Jones, Lackey, Mountjoy, Perrin, Smith, Throckmorton, Ward, White and Williams.

The first resolution was further amended, and the resolutions as amended concurred in.

Ordered. That the clerk inform the house of representatives thereof, and request their concurrence in the amendments.

Resolutions from the house of representatives, in relation to a portion of the public lands of the United States, as a

means of creating a fund for promoting education, and to the right of the several states of the Union to a part of the same for that purpose, were taken up, read and concurred in as follows, to wit:

IN THE HOUSE OF REPRESENTATIVES. Nov. 26, 1821.

The committee to whom were referred the communications from the legislatures of the states of Maryland and New-Hampshire, ask leave to report:

That the communications submitted to them embrace reports and resolutions thereupon, adopted by the legislatures of those states, and the objects of which are to direct the attention of congress and the legislatures of the several states of the Union, to the national lands, as a source from which appropriations for the purposes of education may with justice be claimed by those states for which no such appropriations have yet been made.

Your committee, highly sensible of the importance of the fact, that the most effectual means of achieving or perpetuating the liberties of any country, is to enlighten the minds of its citizens, by a system of education adapted to the means of the most extensive class of its population; and alive to any just means within their power for the advancement of this great object, not only within their own state, but alike to all the members of the great political family of which they are a part, and for whose common interests they are thus united, have, with much interest, examined the facts stated, and the arguments used in said reports, and do not hesitate to concur in the opinions therein expressed, that the national lands are strictly a national fund, and in just proportions the property of all the states of the Union; and that, from the extent and nature of the fund, appropriations may with great propriety be extended to all the states of the Union.

It is deemed unnecessary, in a report of this kind, to enter at large into all the arguments that might be used to establish the opinion above expressed. A few of the facts which have presented themselves in the investigation of this subject, are submitted.

It is ascertained, that all the states and territories whose waters fall into the Mississippi, have been amply provided for by the laws of congress relating to the survey and sale of the public lands, except the state of Kentucky.

Why those appropriations should have stopped short of Kentucky, your committee are not able to see; especially, when they take into consideration its situation in relation

to the other states of the Union, the contest it has maintained in establishing itself, protecting at the same time the western borders of the old states, and extending the more northern and western settlements.

Kentucky long stood alone in a forest of almost boundless extent, separated from her parent settlements by extensive ranges of mountains and forests, fit receptacles for her savage enemies, and by which she was cut off from the succor, and almost from the knowledge of her friends; yet maintaining her stand, and at the same time forming a barrier by which the more eastern states were protected from the common enemy, she has not only established herself, but has also gone forward to the establishment and support of those states and territories which now form the great national domain, which is the subject of this report.

Notwithstanding many arguments might be used, which would go to prove that Kentucky has claims to appropriations of those lands, without extending the system to all the other states, yet your committee believe that such arguments are not necessary, and that a few facts here submitted, will prove that those appropriations may be made general, without materially affecting the national revenue.

Relying upon the apparent correctness of the able document before the committee, received from the state of Maryland, it appears that the total amount of literary appropriations made to the new states and territories, will amount to 14,576,569 acres; that the additional amount required to extend the same system to those states for which no such appropriations have yet been made, would be 9,370,760 acres; that the state of Kentucky, as her part of such appropriation, would be entitled to 1,066,665 acres; and estimating the whole quantity of unsold lands yet owned by the United States, at 400,000,000 acres, that the additional amount required to extend the same scale of appropriation to all the states which have not received any, would not amount to two and a half per centum upon the landed fund as above.

Relying, therefore, upon the foregoing considerations as sufficient for their purpose, and believing that the magnanimity of their sister states in the west, will produce an unanimity in the congress of the United States upon this subject, your committee are prepared to close this report, and beg leave to recommend the adoption of the following resolutions:

Resolved by the Senate and House of Representatives of the Commonwealth of Kentucky, That each of the United States has an equal right, in its just proportion, to participate in the benefit of the public lands, the common property of the Union.

Resolved, That the executive of this state be requested, as soon as practicable, to transmit copies of the foregoing report and resolution to the governors of the several states, and to our senators and representatives in congress, with a request that they will lay the same before their respective houses, and use their endeavors to procure the passage of a law to appropriate to the use of the state of Kentucky, for the purposes of education, such a part of the public lands of the United States as may be equitable and just.

Extract, &c.—Att.

R. S. TODD, C. H. R.

Ordered, That the clerk inform the house of representatives thereof.

A message from the house of representatives, by Mr. Howard :

Mr. Speaker—The house of representatives have passed a bill entitled “an act for the divorce of sundry persons ;” in which they request the concurrence of the senate.

And then he withdrew.

The senate received from the governor, by Mr. Anderson, a message in writing, withdrawing a certain military nomination.

The bill providing for the sale of vacant lands west of the Tennessee river, together with the amendments made by the committee of the whole, were taken up.

The question was taken upon concurring in the first amendment, which proposes to strike out the following preamble and sections, to wit :

And whereas it appears by the report of the surveyor appointed to sectionize the lands west of the Tennessee river, that many persons have removed to, and are settled on the lands of the commonwealth west of said river, whereby the lands in the neighborhood of such settlement have been enhanced in value, and it is thought that the interest of the state will be better promoted by the cultivation and occupancy of those lands by her citizens, than by selling their improvements to speculators, and unhousing their families: Therefore,

§ 13. *Be it enacted, That the register of the land office shall not expose to public sale such portion of any section*

as shall have been occupied at the time of making such survey and sectionizing said lands.

§ 14. Said actual settlers shall have the right to enter with the register, upon the day prior to the last day of sale of said lands, any quantity of land not less than one quarter section, nor more than one half section, including his, her or their residence; and where more than one quarter section is in the bounds of their improvement, they shall have the liberty of taking which they choose, so as not to exceed one half section, by paying therefor the average price per acre that the lands in the township where said resident lives, sold for; whereupon the register shall give to such occupant a receipt as in other cases: *Provided*, that if the said actual settler shall not make such entry, and pay the money, on or before ten o'clock of the day prior to the last day fixed by the register for the sales, then and in that case the register shall proceed to sell the same, as is required by this law.

And it was resolved in the affirmative—Yeas 18, nays 13.

The yeas and nays being required thereon by messrs. Given and Ewing, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Ballinger, Barbee, Bowmar, Carpenter, Dawson, Faulkner, Flournoy, Ford, Gorin, J. L. Hickman, R. Hickman, Jones, Perrin, Pope, Roper, Smith, Throckmorton and White.

Those who voted in the negative, are, messrs. Anderson, Beauchamp, Bowman, Carneal, Crutcher, Ewing, Given, M'Afee, Mountjoy, Pickett, Ward, Weir and Worthington.

The question was then taken upon concurring in the second amendment, striking out one dollar and twenty-five cents, the minimum price of the land, and inserting in lieu thereof two dollars; and it was resolved in the negative—Yeas 18, nays 21.

The yeas and nays being required thereon by messrs. Carneal and Perrin, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Carneal, Ford, J. L. Hickman, R. Hickman, Marshall, Mountjoy, Perrin, Pickett, Pope, Roper, Smith, White and Williams.

Those who voted in the negative, are, messrs. Anderson, Ballinger, Barbee, Beauchamp, Bowman, Bowmar, Carpenter, Crutcher, Davidson, Dawson, Ewing, Faulkner, Flournoy, Given, Jones, M'Afee, Slaughter, Throckmorton, Ward, Weir and Worthington.

Mr. Given then moved the following as an amendment to the bill, to wit:

And whereas it is represented to the present general assembly, that there are many persons settled on the lands west of the Tennessee river, whereby the lands in the neighborhood have been much enhanced in value by such improvements, and it appears reasonable and just that such occupants should not be turned off their improvements without some compensation therefor: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky. That when the land as above, where any settler is settled, is exposed to sale by the register of the land office, and any person else than such settler should be the highest bidder, that such person as aforesaid bidding higher than such settler, before he gets possession of such land from such settler, he shall pay such settler a reasonable price for his improvements that he had made on such land, which has enhanced the lands as aforesaid; and for the purpose of ascertaining the value of such improvements, it shall be the duty of the county court wherein the land lies, at their first court before such sale takes place, to appoint three disinterested commissioners of their county, who are to be discreet, honest, intelligent house keepers, a majority of whom can act, who, on application of such settler or such highest bidder, shall go on the land and value the improvements done on the same, and take into view the worth of labor done, and to what amount the land has been made more valuable by such improvements, and after valuing the same, shall give a certificate of such valuation, under their hands and seals; and the purchaser or highest bidder as aforesaid shall give bond and security, to pay to the occupant or settler in whose favor such valuation is made, the amount of such valuation, in the paper of the Bank of the Commonwealth of Kentucky or its branches, in one year from and after the date of such valuation.

Be it further enacted, If such highest bidder should fail or refuse to pay such occupant or settler, or fail or refuse to give such bond and security as aforesaid, then and in that case the occupant or settler shall keep possession of such land, in the free use of the same in every way, until such condition is complied with by such highest bidder.

Be it further enacted, That such settler shall pay said commissioners _____ per day for every day they may be necessarily employed in the discharge of the duties as commissioners as aforesaid. *Provided,* that no settler who

shall settle on those lands after the passage of this act, shall be entitled to any of the aforesaid benefits.

And the question being taken thereon, it was resolved in the negative—Yeas 9, nays 23.

The yeas and nays being required thereon by messrs. Faulkner and Throckmorton, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Beauchamp, Bowman, Crutcher, Ewing, Given, Marshall, Mountjoy, Ward and Weir.

Those who voted in the negative, are, messrs. Ballinger, Barbee, Bowmar, Carneal, Carpenter, Davidson, Dawson, Faulkner, Flournoy, Ford, Gorin, J. L. Hickman, R. Hickman, Jones, M'Affee, Perrin, Pickett, Roper, Smith, Throckmorton, White, Williams and Worthington.

A bill from the house of representatives, entitled "an act making compensation for the surveyor and others employed on the part of this state for running and marking the boundary line between the states of Kentucky and Tennessee," was read the first time.

The rule being dispensed with, it was read a second and third time.

Resolved, That the said bill do pass, and that the clerk inform the house of representatives thereof.

And then the senate adjourned.

FRIDAY, DECEMBER 7, 1821.

The senate assembled.

A message from the house of representatives, by Mr. Crawford :

Mr. Speaker—The house of representatives have received official information that the governor did, on the 5th inst. approve and sign sundry enrolled bills which originated in that house, of the following titles, to wit : An act to regulate appeals from justices of the peace to the county courts ; an act for the benefit of Jesse Walker and others ; an act to add part of Logan county to the county of Todd ; an act for the benefit of Samuel Simpson and others ; resolutions appointing joint committees on the reports from the Bank of the Commonwealth and branches.

And they have passed bills of the following titles, to wit : An act concerning Jeffersontown, in Jefferson county ; an act for the benefit of Henry S. Langford, infant heir of Stephen Langford, deceased ; an act giving further time to

return plats and certificates of survey ; an act authorising the trustees of the Union academy to sell certain lands ; an act for the benefit of the heirs of William Allen, deceased ; and an act for the benefit of the seminary in Harlan county ; in which they request the concurrence of the senate.

And then he withdrew.

Mr. J. L. Hickman presented the petition of the heirs of Lewis Masquerier, deceased, representing that he was an alien, praying that a law may be passed confirming his title to a certain tract of land, and for a sale of said land.

Also the petition of the heirs of John Allen, deceased, praying that a law may be passed authorising a grant to issue to them for 2000 acres of land south west of the Tennessee river.

Which were severally read and referred to the committee for courts of justice.

A message from the house of representatives, by Mr. Catlett :

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled "an act for the benefit of the widow and heirs of John R. Chitwood."

And then he withdrew.

A message from the house of representatives, by Mr. Brents :

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled "an act to authorise the sale of part of the real estate of Alexander Dunbar, deceased," with amendments, in which they request the concurrence of the senate.

And then he withdrew.

The amendments were taken up, twice read and concurred in.

Ordered, That the clerk inform the house of representatives thereof.

The senate resumed the consideration of a bill providing for the sale of the lands west of the Tennessee river.

Mr. Given moved the following amendment, to wit :

And whereas it is represented to the present general assembly, that there are many settlers who have removed to, and are settled on the lands west of the Tennessee river, in the late purchase, whereby the lands have been enhanced in value by the occupancy of those lands and the improvements which they have made, by making roads, building mills, cotton gins, &c. and it appearing reasonable and just, that for the above improvements done the country, and for the

toils, difficulty and hardship they have and are still suffering, some exclusive right or privilege should be granted them: Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky. That where there is any settler or occupant settled on any half or quarter section, he shall not expose it to sale as in other cases: but the said settler shall have the exclusive privilege of entering said quarter or half section on which he is settled, at any time before ten o'clock of the day before the last day of the sale of such lands, at \$1 25 per acre, with the register of the land office, and he shall at the time of entering, pay for the same; but if he fails or refuses to enter said improvements as above, at the time and manner as above, the said register shall expose all such to sale, as if no occupant or settler had ever settled on the same.

The question being taken thereon, it was resolved in the negative—Yeas 7, nays 27.

The yeas and nays being required thereon by messrs. Given and Gorin, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Crutcher, Ewing, Given, Lackey, M'Afee, Mountjoy and Weir.

Those who voted in the negative, are, messrs. Anderson, Ballinger, Barbee, Beauchamp, Bowman, Bowmar, Carpenter, Davidson, Dawson, Faulkner, Flournoy, Ford, Gorin, J. L. Hickman, R. Hickman, Jones, Marshall, Owens, Perrin, Pickett, Roper, Slaughter, Smith, Throckmorton, White, Williams and Worthington.

The bill was further amended at the clerk's table.

Mr. Given then moved to lay the bill on the table until the first day of March next; and the question being taken thereon, it was resolved in the negative—Yeas 8, nays 27.

The yeas and nays being required thereon by messrs. Beauchamp and Ewing, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Beauchamp, Carneal, Ewing, Ford, Given, Marshall, Mountjoy and White.

Those who voted in the negative, are, messrs. Anderson, Ballinger, Barbee, Bowman, Bowmar, Carpenter, Crutcher, Davidson, Dawson, Faulkner, Flournoy, Gorin, J. L. Hickman, R. Hickman, Jones, Lackey, M'Afee, Perrin, Pickett, Roper, Slaughter, Smith, Throckmorton, Ward, Weir, Williams and Worthington.

The said bill was ordered to be engrossed, as amended, and read a third time.

A message from the house of representatives, by Mr. Murray :

Mr. Speaker—The house of representatives have passed a bill entitled “an act to establish a literary fund, and for other purposes;” in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. M’Connell :

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled “an act for the benefit of Samuel Lewis,” with an amendment, in which they request the concurrence of the senate.

And then he withdrew.

The amendment was taken up, twice read and concurred in.

Ordered, That the clerk inform the house of representatives thereof.

On the motion of Mr. White, leave was given to bring in a bill to authorise the president and directors of the Bank of Kentucky to receive real estate in payment of debts; and messrs. White, Marshall and J. L. Hickman were appointed a committee to prepare and bring it in.

Mr. White, from said committee, reported a bill, which was read the first time. The rule being dispensed with, it was read a second time, and committed to messrs. J. L. Hickman, Marshall, White, Beauchamp and Bowmar.

Mr. Crutcher, from the select committee raised for that purpose, reported a bill to amend the charter of the Bank of the Commonwealth of Kentucky; which was read the first time and ordered to be read a second time.

The senate received information by Mr. Anderson, that the governor did on yesterday approve and sign sundry enrolled bills which originated in the senate, of the following titles, to wit: An act to encourage the publication of a Digest of the Statute Law of Kentucky; an act to amend an act establishing a seminary in Rockcastle county, and for other purposes; an act to extend the limits of the town of Princeton, to legalize the proceedings of the trustees thereof and give them additional powers, and for other purposes; an act for the benefit of Polly Parker and children, and for other purposes.

Ordered, That the clerk inform the house of representatives thereof.

Bills from the house of representatives, of the following titles, to wit: An act to regulate the Bath seminary, in Bath county; an act for the benefit of the heirs of Abraham Carter, deceased; an act to authorise the register to perform certain duties; an act for the relief of the widow and heirs of George Chism, deceased; an act to alter and amend the fifth section of an act entitled "an act to amend and reduce into one the several acts regulating Middletown, in Jefferson county;" an act to amend the act incorporating the shareholders and directors of the Lexington Library; an act for the benefit of the heirs of James M'Night; an act to ascertain and mark the division line between the counties of Grant, Boone and Gallatin; and an act for disposing of the lands east of the Tennessee river, and south of Walker's line, and north of latitude $36^{\circ} 30'$; were severally read the first time.

The rule being dispensed with they were read a second and third time, the eighth having been amended at the clerk's table.

Resolved, That the eight former bills do pass, and that the title of the eighth be amended by adding thereto the words "and Henderson and Union."

Ordered, That the clerk inform the house of representatives thereof, and request their concurrence in the amendments.

The ninth bill was ordered to be read a third time.

A bill to amend an act entitled "an act for the relief of insolvent debtors," and an act to prevent the destruction of timber, were severally read a second time.

The former was ordered to be engrossed and read a third time, and the latter was laid on the table until the first day of March next.

And then the senate adjourned.

SATURDAY, DECEMBER 8, 1821.

The senate assembled.

Mr. Barbee, from the joint committee of enrolments, reported that they had examined an enrolled bill and an enrolled resolution of the following titles, to wit: An act for making compensation for the surveyor and others employed on the part of this state for running and marking the boundary line between the states of Kentucky and Tennessee, and resolutions in relation to a portion of the public

lands of the United States as a means of creating a fund for promoting education, and to the right of the several states of the Union to a part of the same for that purpose; and had found the same truly enrolled.

Mr. Perrin presented the petition of N. B. Coleman and William M. Baylor, praying that a law may be passed compelling the county court of Harrison to compensate them for a claim they have to part of their public ground; which was read and referred to the committee for courts of justice.

A message from the house of representatives, by Mr. Yantis:

Mr. Speaker—The Speaker of the house of representatives having signed an enrolled bill and resolution, I am instructed to lay the same before the Senate, for the signature of their Speaker.

And then he withdrew.

Mr. Mountjoy, from the select committee to whom was referred a bill from the house of representatives, entitled "an act for the removal of the seat of justice of Campbell county," reported the same without amendment, which was read a third time as follows, to wit:

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Benjamin Johnson and James M. Graves, of the county of Boone; John H. Rudd, of the county of Bracken; and James King, of the county of Pendleton, be, and they are hereby appointed commissioners, who, or a majority of them, are to meet at Newport, in the county of Campbell, on the second Monday in January next, or so soon thereafter as may be practicable, and from thence proceed to explore said county and fix on the most eligible situation, as near the centre of said county as may be practicable, for the permanent seat of justice thereof, having due regard to the convenience of the inhabitants of the county and the propositions made for the sale of the land on which it may be located; and the said commissioners having fixed on a place for the permanent seat of justice for the said county, shall certify the same, under their hands, to the county court of said county, who, at their first session after the report of said commissioners shall have been lodged with their clerk, shall proceed to appoint five trustees, whose duty it shall be to lay off a town at the place fixed on by the commissioners for the seat of justice for the said county; and having set apart such portion of ground as they may think necessary for the erection of

public buildings for said county, shall lay off the residue of the land appropriated for the purpose of a town, into convenient lots, streets and alleys, and shall proceed to sell the said lots at public auction, for the best price that can be had for them, on such terms of payment, and in such proportions as they may deem most advantageous to the county and the person or persons interested in said sales, giving public notice of the time and terms of such sale or sales, and causing the same to be made at the place fixed by the commissioners aforesaid.

§ 2. The said commissioners shall, before they enter upon the duties delegated to them by this act, take an oath before some justice of the peace in said county, to act impartially and justly, to the best of their judgment, in the discharge of their said duties; and the said commissioners shall, before they fix on a place for the permanent seat of justice for the said county, obtain from the owner or owners of the land on which they propose to fix the said seat of justice, his or their assent thereto, and a formal declaration thereof in writing, containing the terms of his agreement with the commissioners, together with an obligation in writing to the justices of the county court of said county, that the said owner or owners will, upon the appointment of trustees by the said court, under the provisions of this act, convey to the said trustees and their successors in office, the legal title to at least fifty acres of land surrounding or adjoining the place so fixed on by the commissioners, to be by them, the said trustees, laid off into a town and sold as directed by this act.

§ 3. Any person or persons who may be desirous of contributing to the erection of the public buildings of the said county, or to induce the erection thereof on or adjacent to their lands, may at any time before the decision of the commissioners aforesaid, make proposals in writing, specifying particularly therein what quantity of land or sum of money he, she or they will give to the county court of the said county, for the purpose of aiding in the erection of the public buildings, and on what terms; which proposal shall be addressed to the said commissioners and lodged with the clerk of the county court of said county, to be by him delivered to the said commissioners, and by them examined, and then returned to said clerk; which proposals, when the terms thereof shall have been acceded to, shall be binding and obligatory on the person or persons making the same, and may, if not complied with, be sued on by the justices of

the said county court, and the amount or value thereof recovered by action in the circuit court of the said county, or if the sum does not exceed fifty dollars, to be recoverable before a justice of the peace.

§ 4. If any part of the land proposed to be laid off into town lots under the provisions of this act, other than the part appropriated for the public buildings, shall, by the owner or owners thereof, have been offered and accepted by way of donation or otherwise, to the county, for the purpose of aiding in the erection of the public buildings, or by way of inducement to the establishment of the seat of justice at a particular place, the proceeds of the sale of that proportion of the said lots so offered and accepted shall be appropriated by the justices of the county court to the erection of the public buildings, and for that purpose shall be subject to their order and disposition, and the residue of the proceeds of said sales shall be paid to the proprietor or proprietors of the land on which the said town shall be established.

§ 5. Upon the establishment of the permanent seat of justice in and for the said county, the county court thereof shall meet and hold their county court next succeeding the court before whom the report of the commissioners has been laid, at the place fixed on by the commissioners; and the circuit and county courts shall at all times thereafter meet and hold their respective courts at the aforesaid place, or so near thereto as a convenient house can be procured, until the public buildings are completed; and it shall be the duty of the county court to proceed forthwith to erect there all the public buildings required by law.

§ 6. The place fixed on by the commissioners aforesaid, shall, from and after the certificate thereof shall have been filed with the county court, be and remain the permanent seat of justice of said county.

§ 7. It shall be the duty of the said county court to allow to the commissioners three dollars per day, each, for their services, and to pay the same, together with all other expenses necessary for effecting the objects of this act, out of the county levy, or out of any depositum that may be in the hands of the sheriff.

§ 8. The county court shall have full power from time to time to fill vacancies that may happen in the board of trustees. That the trustees, before they enter upon the duties assigned them by this act, shall take an oath before some justice of the peace of said county, well and truly to discharge the duties of trustees, as long as they continue in of-

fice, to the best of their knowledge and ability; and it shall be the duty of the trustees to convey to the purchasers the lots sold, so soon as the consideration shall be paid, and from time to time to pay over to the county court, or to their order, all sums of money they may collect or receive, and any donations made to said county, and also for all lots and sale of land donated to said county, and at all times to settle and account to said court, or their commissioners appointed for that purpose; and if required, to file with the clerk of said county all notes or bonds they may have taken for the sale of said lots and other bonds that may be given for the payment of money or property as donations to the said county.

And the question being taken on the passage thereof, it was resolved in the negative—Yeas 6. nays 29.

The yeas and nays being required thereon by messrs. Mountjoy and Carneal, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Barbee, Dawson, Given, Lackey, Mountjoy and Smith.

Those who voted in the negative, are, messrs. Anderson, Ballinger, Beauchamp, Bowman, Bowmar, Carneal, Crutcher, Davidson, Ewing, Faulkner, Flournoy, Ford, Gorin, J. L. Hickman, R. Hickman, Jones, Marshall, M'Affee, Owens, Perrin, Pickett, Pope, Roper, Slaughter, Throckmorton, Weir, White, Williams and Worthington.

On the motion of mr. Ewing,

Ordered, That the committee of the whole house on the state of the commonwealth be discharged from the further consideration of all subjects referred to them.

A bill to regulate the Bank of the Commonwealth of Kentucky, was committed to messrs. Marshall, Carneal and M'Affee.

Mr. Carneal presented the petition of Elijah Grant, praying that a law may pass remunerating him for certain losses sustained by pulling down his mill dam, &c. on Licking.

Mr. J. L. Hickman presented the petition of the Paris Union Lodge, praying that a law may be passed authorising them to establish a lottery for the purpose of raising a fund to enable them to erect a Masonic Hall.

Which were read and referred, the former to the committee of propositions and grievances, and the latter to messrs. J. L. Hickman, White and R. Hickman, with leave to report by bill or otherwise.

Mr. Roper, from the committee for courts of justice, to whom were referred resolutions instructing the members in

Congress from Kentucky to propose certain amendments to the federal constitution, reported the same with an amendment in lieu thereof, which was committed to a committee of the whole house on the state of the commonwealth for Monday next.

Ordered, That the public printers forthwith print 150 copies of the amendment, for the use of the members of the senate.

On motion of Mr. Carneal, leave was given to withdraw the petitions of the citizens of Campbell county in relation to their seat of justice.

Mr. Anderson made the following report, to wit :

The joint committee appointed to examine the report of the branch of the Bank of the Commonwealth for the sixth district, composed of the counties of Ohio, Grayson, Breckinridge, Daviess, Henderson and Union, ask leave to report:

That in compliance with the resolution under which they were appointed to act, they have had said report under consideration, and submit the following as the result of their examinations.

They find that previous to the first day of October last, which is the date of the report, a just proportion of 2,500,000 dollars, had been loaned to each county composing said district, with the exception of small balances in a few cases, which are regarded by the committee as unimportant.

It appears also, that no director in this branch has received a greater accommodation than was contemplated by the charter—that a majority of them have not received more than half that amount, and that the director for one of the counties has not received any loan.

It appears, also, to the committee, that the loans have been greatly diffused, and that in no instance has a greater amount been loaned to any individual, than was authorised by the charter. There are but few loans to persons, not directors, exceeding in amount three hundred dollars, and it is believed, that a majority of the loans are less than one hundred dollars.

As it regards the security of the debts to this branch, the committee are able to state, that in every instance, the proper number of securities has been required—that the loans appear to be generally well secured, and that they have not been able to detect any case in which they would be justified in stating that the debt is not safe.

It is thought proper to state further, that the report submitted to them exhibits in its matter and execution, a de-

gree of attention to the interests of the institution, and the intentions of the legislature highly creditable to its officers.

From the Senate.

N. D. ANDERSON.

From the House of Representatives.

DAVID R. MURRAY,

WILLIAM INGLISH,

JOHN CALHOUN,

FRANCIS LOCKETT,

BENJ. DUNCAN,

HUGH M'ELROY.

Mr. Bowmar, from the select committee raised for that purpose, reported a bill to regulate proceedings under executions, orders of sale and decrees in chancery ; which was read the first time.

The rule being dispensed with, it was read a second time and committed to a committee of the whole house on the state of the commonwealth for Tuesday next.

Ordered, That the public printers forthwith print 150 copies of said bill, for the use of the members of the senate.

A message from the house of representatives, by Mr. B. Taylor :

Mr. Speaker—The house of representatives have passed a bill entitled “an act to amend an act concerning a house of public worship in the town of Frankfort;” in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Pearcy :

Mr. Speaker—The house of representatives have passed a bill entitled “an act for the relief of Andrew Craig;” in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Cowan :

Mr. Speaker—The house of representatives have passed a bill entitled “an act authorising the sale of the real estate and slaves of certain persons;” in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Younger :

Mr. Speaker—The house of representatives have passed a bill entitled “an act for the benefit of the heirs of William

Shannon and James Preston;" in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Warfield:

Mr. Speaker—The house of representatives concur in the amendment proposed by the senate, fixing a day for the election of a president and directors of the Bank of the Commonwealth of Kentucky and other officers.

And then he withdrew.

On motion of Mr. Flournoy, leave was given to bring in a bill to tax certain lands; and messrs. Flournoy, Bowman and Barbee were appointed a committee to prepare and bring it in.

On the motion of Mr. Carneal, the vote on the passage of a bill from the house of representatives, entitled "an act providing for ascertaining and marking the lines between the counties of Boone, Grant and Gallatin," was reconsidered, and the bill committed to messrs. Carneal, Mountjoy and Weir; and after some time, Mr. Carneal reported the bill with amendments, which were concurred in.

Resolved, That the said bill as amended do pass, and that the title be amended to read "an act to ascertain and mark the division lines between certain counties."

Ordered, That the clerk inform the house of representatives thereof and request their concurrence in the amendments.

Leave was given Mr. Bowmar to report a bill for the benefit of the legatees of William Kinkead, deceased; which was read the first time.

The rule being dispensed with, it was read a second time, and having been engrossed, was read a third time.

Resolved, That the said bill pass, and that the title be "an act for the benefit of the legatees of William Kinkead, deceased."

Ordered, That the clerk carry said bill to the house of representatives and request their concurrence.

An engrossed bill providing for the sale of the vacant lands west of the Tennessee river, was read a third time and the blanks therein filled; and it was committed to messrs. White, Marshall and M'Affee.

After some time, Mr. White reported the said bill with amendments, which were concurred in; and on motion, the bill was re committed to messrs. J. L. Hickman, Bowmar, M'Affee, Flournoy and Given.

And then the senate adjourned.

MONDAY, DECEMBER 10, 1821.

The senate assembled.

The Speaker signed the enrolled bill and resolution reported by Mr. Barbee on Saturday, and they were delivered to the joint committee of enrolments, to be laid before the governor for his approbation and signature.

And Mr. Williams, from said committee, reported that they had performed that duty.

Mr. J. L. Hickman, from the select committee to whom was referred a bill providing for a sale of the vacant lands west of the Tennessee river, reported an amendment in lieu of the bill, which was concurred in with amendments.

Mr. Marshall moved the following amendment, to wit :

§ 17. *Be it further enacted*, That the register of the land-office shall not sell, under the provisions of this act, any section or fraction of a section of land which may be included in any military entry or survey : *Provided* he is satisfied of such interference, by an attested copy of such entry or survey being served on him.

And the question being taken thereon, it was resolved in the affirmative—Yeas 18, nays 15.

The yeas and nays being required thereon by Messrs. Marshall and Ewing, were as follows, to wit :

Those who voted in the affirmative, are, Messrs. Anderson, Ballinger, Barbee, Beauchamp, Bowmar, Carneal, Crutcher, Ewing, Ford, Given, Lackey, Marshall, M'Affee, Mountjoy, Pickett, Roper, Weir and White.

Those who voted in the negative, are, Messrs. Bowman, Davidson, Dawson, Faulkner, Gorin, J. L. Hickman, R. Hickman, Owens, Perrin, Pope, Slaughter, Throckmorton, Ward, Williams and Worthington.

The 13th section of the bill was then read as follows, to wit :

§ 13. If the lands sold under this act shall be taken from any purchaser or his vendee, by a prior claim adverse to the title acquired by the sale and purchase under this state, the said purchaser or person claiming under him, shall receive from the treasury the amount which he paid for said land, upon the production of the record and the certificate of the judge of the court, that said land was lost upon a fair and full trial upon the merits of the respective titles, to the auditor of public accounts, who shall issue his warrant on the treasury for the amount of the original purchase money, without interest.

Mr. Beauchamp moved to amend the section, by adding thereto the words, "to be paid in the same kind of money which was paid for said land, or that equal in value."

And the question being taken thereon, it was resolved in the negative—Yeas 5, nays 25.

The yeas and nays being required thereon by messrs. Beauchamp and Throckmorton, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Beauchamp, Given, Marshall, Mountjoy and White.

Those who voted in the negative, are, messrs. Anderson, Ballinger, Barbee, Bowman, Bowmar, Carneal, Davidson, Dawson, Ewing, Faulkner, Ford, Gorin, J. L. Hickman, R. Hickman, Lackey, M^cAfee, Owens, Perrin, Pickett, Roper, Slaughter, Throckmorton, Ward, Weir and Worthington.

The question was then taken on the passage of the bill, and it was resolved in the affirmative—Yeas 24, nays 9.

The yeas and nays being required thereon by messrs. Gorin and Given, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Barbee, Bowman, Bowmar, Crutcher, Davidson, Dawson, Faulkner, Gorin, J. L. Hickman, R. Hickman, Lackey, M^cAfee, Perrin, Pickett, Pope, Roper, Slaughter, Throckmorton, Ward, Weir, Williams and Worthington.

Those who voted in the negative, are, messrs. Beauchamp, Carneal, Ewing, Ford, Given, Marshall, Mountjoy, Owens and White.

Resolved, That the said bill pass, and that the title be "an act providing for the sale of the vacant lands west of the Tennessee river."

Ordered, That mr. M^cAfee carry said bill to the house of representatives and request their concurrence.

On the motion of mr. Beauchamp, leave was given to bring in a bill to provide for the cultivation and improvement of lands in this commonwealth; and messrs. Beauchamp, White, Pope, Roper, M^cAfee, Owens and Flournoy were appointed a committee to prepare and bring it in.

A message from the house of representatives, by mr. Catlett :

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled "an act forming the county of Lawrence, out of parts of the counties of Greenup and Floyd," with an amendment, in which they request the concurrence of the senate.

And then he withdrew.

The amendment was taken up and concurred in.

Ordered, That Mr. Ward inform the house of representatives thereof.

A message from the house of representatives, by Mr. M'lanahan :

Mr. Speaker—The house of representatives have passed a bill entitled "an act for the better regulation of the towns of Carlisle and Springfield;" in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Warfield :

Mr. Speaker—The house of representatives have passed a bill entitled "an act to alter and change the name of the town of Marysville, in Harrison county;" in which they request the concurrence of the senate.

And then he withdrew.

The bill was read the first time, and the rule being dispensed with, it was read a second and third time.

Resolved, That the said bill pass, and that Mr. Perrin inform the house of representatives thereof.

The senate received from the governor two messages in writing. The rule being dispensed with, they were taken up and read as follows, to wit :

Gentlemen of the Senate,

I nominate for your advice and consent, the following gentlemen, to be commissioned during good behaviour, to wit :

Alney M'Lean, a circuit judge in and for this commonwealth, to preside in the 14th judicial district.

Joseph Ye, a circuit judge in and for this commonwealth, to preside in the 5th judicial district.

Philip Thompson, attorney for the commonwealth in the 14th judicial district.

Elisha Smith, attorney for the commonwealth in the 15th judicial district.

Samuel M'Kee, attorney for the commonwealth in the 12th judicial district, in the place of Elisha Smith, resigned.

December 10th, 1821.

JOHN ADAIR.

Gentlemen of the Senate,

I nominate for your advice and consent, Harry Duff, sheriff of the county of Perry, in the place of Jesse Adams, resigned.

moved, to continue in office for and during the balance of the term for which said Adams was commissioned.

JOHN ADAIR.

December 10th, 1821.

The military nominations made on the 4th instant, were also taken up and read as follows, to wit:

Gentlemen of the Senate.

I nominate for your advice and consent, the following gentlemen, to be commissioned during good behaviour, viz.

Theophilus Powell, colonel of the 56th regiment, in the place of James Stratton, resigned.

William Ratliff, lieutenant colonel of the same regiment, in the place of Theophilus Powell, if promoted.

William Williams, major of the same regiment, in the place of Mial Mayo, resigned.

JOHN ADAIR.

December 4th, 1821.

The military nominations made on the 13th day of November, were again taken up and read as follows, to wit:

David Gibson, lieutenant colonel of the 51st regiment; Thomas Easterday, major of the same regiment; James F. Mitcherson, colonel of the 107th regiment; Samuel Baker, lieutenant colonel of the same regiment; and Vincent Snelling, major of the same regiment.

Resolved, That the senate advise and consent to the said appointments—the first unanimously.

Ordered, That messrs. Lackey and Crutcher inform the governor thereof.

Mr. J. L. Hickman, from the select committee to whom was referred a bill to authorise the president and directors of the Bank of Kentucky to receive real estate in payment of debts, reported the same with amendments, which were laid on the table.

Ordered, That the public printers forthwith print 150 copies of said bill and amendments, for the use of the members of the senate.

Mr. Owens, having obtained leave, reported a bill for the benefit of the sheriff of Wayne county; which was read the first time.

The rule being dispensed with, it was read a second time and committed to messrs. Carneal, Owens and Roper; and after some time, Mr. Carneal reported the same with an amendment, which was concurred in.

The bill having been engrossed, and the rule again dispensed with, was read a third time.

Resolved, That the said bill pass, and that the title be "an act for the benefit of the sheriffs of Wayne and Campbell counties."

Ordered, That Mr. Owens carry said bill to the house of representatives and request their concurrence.

Resolutions from the house of representatives, concerning the occupying claimant laws, and the decision of the supreme court of the United States thereon, were committed to messrs. Roper, Marshall, Pope and M'Afee.

A bill from the house of representatives, entitled "an act to establish a literary fund, and for other purposes," was read the first time.

The rule being dispensed with, it was read a second time, and committed to messrs. M'Afee, White and Roper.

The following message from the governor was taken up and read as follows, to wit:

Gentlemen of the Senate,

I have received the resignation of Samuel Sayers, who has been nominated to you for your advice and consent, by the name of Samuel Sowers, as colonel of the 103d regiment Kentucky militia: I therefore beg leave to withdraw said nomination.

JOHN ADAIR.

December 6th, 1821.

Resolved, That leave be given to withdraw said nomination; and that Mr. Carneal inform the governor thereof.

The senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Barbee in the chair; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Barbee reported, that the committee had, according to order, had under consideration resolutions instructing the members in congress from Kentucky, to propose an amendment to the federal constitution, and had gone through the same with amendments, which he handed in at the clerk's table; when the whole matter was committed to messrs. White, Marshall, M'Afee, Roper, Pope, Carneal and Barbee.

A message from the house of representatives, by Mr. Slaughter:

Mr. Speaker—The house of representatives have passed a bill entitled "an act for the relief of the sheriff of Warren county;" in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Cowan :

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled “an act to amend the act entitled an act to regulate endorsements on executions,” with amendments, in which they request the concurrence of the senate.

And then he withdrew.

The amendments were read, and committed to messrs. Marshall, M’Afee, Roper, J. L. Hickman, Lackey, Weir and Bowmar.

Mr. Barbee made the following report, to wit :

The committee consisting of the senators and representatives from the counties composing the Greensburg branch bank district of the Bank of the Commonwealth of Kentucky, have had the subjects, to them referred, under their consideration, and have come to the following report thereupon, to wit :

That the paper has been distributed to the several counties and among the individual applicants, according to the principles of the charter, and that the loans, in the opinion of your committee, are well secured ; and your committee have not been able to discover, that any person or persons have either directly or indirectly, borrowed larger sums than authorised by law.

From the senate,

ELIAS BARBEE,
JOHN GORIN,
WILLIAM OWENS,
GRANVILLE BOWMAN.

From the house of representatives,

SAMUEL BRENTS,
JOEL YANCEY,
LIBERTY GREEN,
RICH^d. J. MUNFORD,
EDWARDS KING,
JOSEPH G. HARDIN,
JOEL OWSLEY.

The senate received a message from the governor, by the secretary of state, covering a communication from the mayor, aldermen and common council of the City of Washington.

A message from the house of representatives, by Mr. Brents :

Mr. Speaker—The house of representatives have passed a bill entitled "an act to amend an act for surveying the military claims west of the Tennessee river," approved December 26, 1820; in which they request the concurrence of the senate.

And then he withdrew

A bill to amend the act directing the course of descents, was committed to messrs. Beauchamp, Marshall, Owens and Pope.

A bill concerning the conveyance of lands, was committed to messrs. White, Lackey and Bowmar.

A bill to amend an act providing a summary mode of recovering debts, was taken up; and the question being taken on engrossing the same, it was resolved in the affirmative—Yeas 19, nays 14.

The yeas and nays being required thereon by messrs. Faulkner and Throckmorton, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Beauchamp, Bowmar, Carneal, Ewing, Gorin, Lackey, Marshall, M'Affee, Mountjoy, Owens, Perrin, Pickett, Pope, Smith, Throckmorton, Ward and White.

Those who voted in the negative, are, messrs. Barbee, Bowman, Crutcher, Davidson, Dawson, Faulkner, Ford, Given, J. L. Hickman, Roper, Slaughter, Weir, Williams and Worthington.

The senate received from the governor, by Mr. Anderson, two messages in writing, containing military nominations.

A bill to amend the several acts concerning assignment and relinquishment of dower, was taken up; and the question being taken on engrossing and reading it a third time, it was resolved in the negative; and so the said bill was rejected.

An engrossed bill to increase the salary of the treasurer, was read a third time and the blank therein filled; and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 21, nays 12.

The yeas and nays being required thereon by messrs. Perrin and Throckmorton, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Barbee, Bowmar, Carneal, Crutcher, Davidson, Faulkner, Gorin, J. L. Hickman, Lackey, Marshall, M'Affee, Owens, Pickett, Pope, Slaughter, Smith, Ward, White and Williams.

Those who voted in the negative, are, messrs. Beauchamp, Bowman, Dawson, Ewing, Ford, Given, Mountjoy, Perrin, Roper, Throckmorton, Weir and Worthington.

Resolved, That the said bill pass, and that the title be "an act to increase the salary of the treasurer."

Ordered, That the clerk carry said bill to the house of representatives and request their concurrence.

A bill to amend an act appointing persons to view a way for a road from Danville to the Tennessee line, was laid on the table.

A bill for the benefit of Marcus Thomas, was read a second time and ordered to be engrossed and read a third time.

A message from the house of representatives, by Mr. Murray :

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled "an act to amend the act altering the mode of taking in the lists of taxable property."

And then he withdrew.

Bills from the house of representatives, of the following titles, to wit : 1. An act to legalize the proceedings of the Nelson county court at their November term 1821 ; 2. an act for the benefit of Polly Martin ; 3. an act for the benefit of Joel Morrison ; 4. an act for the benefit of the widow and heirs of John Anderson, deceased ; 5. an act to amend the law allowing compensation to venire men and witnesses ; 6. an act for the benefit of the widow and heirs of John Willitt, deceased ; and 7. an act authorising the county courts of Bracken, Mason and Fayette to purchase and erect buildings for the accommodation of their poor ; were severally read the first time.

The rule being dispensed with, they were read a second time, and the five former a third time.

Resolved, That the five former bills pass, and that the clerk inform the house of representatives thereof.

The sixth bill was ordered to be read a third time, and the seventh was committed to messrs. Pope, Pickett and Marshall.

And then the senate adjourned.

TUESDAY, DECEMBER 11, 1821.

The senate assembled.

Mr. Williams, from the joint committee of enrolments, reported that they had examined sundry enrolled bills and an enrolled resolution of the following titles, to wit : An act to alter and amend the 5th section of an act entitled "an act to amend and reduce into one the several acts regulat-

ing Middletown, in Jefferson county ; an act for the benefit of the heirs of Abraham Carter ; an act to amend the act incorporating the shareholders and directors of the Lexington library ; an act authorising the register to perform certain duties ; an act to alter and change the name of the town of Marysville, in Harrison county ; an act for the relief of the widow and heirs of George Chism, deceased ; a resolution fixing on a day for the election of a president and directors of the Bank of the Commonwealth and branches, a president and directors of the Bank of Kentucky, and other officers ; and had found the same truly enrolled.

A message from the house of representatives, by **MR. Yantis** :

Mr. Speaker—The Speaker of the house of representatives having signed sundry enrolled bills and an enrolled resolution, I am instructed to lay the same before the senate, for the signature of their Speaker.

And then he withdrew.

Whereupon the Speaker signed the said bills and resolution, being the same reported to day by **MR. Williams**, and they were delivered to the joint committee of enrolments, to be laid before the governor for his approbation and signature.

And **MR. Williams**, from said committee, reported that they had performed that duty.

A message from the house of representatives, by **MR. Wickliffe** :

Mr. Speaker—The house of representatives have passed a bill entitled “an act to authorise the establishment of a Branch Bank of the Commonwealth at Bardstown ;” in which they request the concurrence of the senate.

And then he withdrew.

MR. Pope, from the select committee to whom was referred a bill from the house of representatives, entitled “an act authorising the county courts of Bracken, Mason and Fayette to purchase and erect buildings for the accommodation of their poor,” reported the same with amendments ; and the same was re-committed to the same committee, and **MR. Faulkner** was added thereto.

MR. White, from the select committee to whom was referred resolutions instructing the members in congress from Kentucky to propose an amendment to the federal constitution, reported an amendment as a substitute for the whole, which was concurred in as follows, to wit :

The general assembly of Kentucky, in common with their fellow citizens, contemplate with regret and alarm, the encroachments of the federal judiciary upon the rights and sovereignty of the states. They consider it unnecessary to enter into a particular enumeration of the various and multiplied instances, in which the federal courts have invaded the just and constitutional powers of the states. They are sufficiently known and felt by the people of the states, to authorise the conclusion, that it is not safe to trust the construction of the federal compact with one of the parties thereto. Men will lean to the source from whence they derive power and receive support. The states are not safe, without the power of appointing or controlling, in some measure, those who adjudicate on their rights. To be impartial, the tribunal of last resort should be part state, part national. The senate of the United States is a body thus constituted. Appointed by the states, and paid by the nation, in adjudicating on the powers of the one, they cannot forget the rights of the other: Therefore,

Resolved, That this legislature, on behalf of the people of Kentucky, do most solemnly protest against this assumption of power on the part of the federal courts; and in order that the said court may be controlled and prevented, in future, from the exercise of powers not delegated by the constitution, and that the states may be fairly represented in questions touching state powers and state rights,

Resolved by the General Assembly of the Commonwealth of Kentucky, That our senators in congress be instructed, and our representatives requested to propose and endeavor to procure the adoption of the following amendment to the constitution of the United States, viz: In all cases before the supreme court, wherein the validity of a state constitution or law shall be called in question, and the decision shall be against its validity, there shall be an appeal to the senate of the United States, by whom the said decision may be confirmed or reversed.

And the question being taken on the adoption thereof, it was resolved in the affirmative—Yeas 27, nays 8.

The yeas and nays being required thereon by messrs. Beauchamp and Perrin, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Ballinger, Barbee, Bowman, Bowmar, Carneal, Crutcher, Dawson, Ewing, Ford, Gorin, J. L. Hickman, R. Hickman, Lackey, Marshall, M'Affee, Owens, Perrin, Pickett, Pope,

Roper, Smith, Throckmorton, Ward, Weir, White, Williams and Worthington.

Those who voted in the negative, are, messrs. Anderson, Beauchamp, Carpenter, Davidson, Faulkner, Given, Mountjoy and Slaughter.

Ordered, That Mr. White inform the house of representatives thereof, and request their concurrence.

Mr. M'Afee, from the select committee to whom was referred a bill from the house of representatives, entitled "an act to establish a literary fund, and for other purposes," reported the same with amendments, which, together with the bill, were committed to a committee of the whole house on the state of the commonwealth, for Thursday next.

Ordered, That the public printers forthwith print 150 copies of said bill and amendments, for the use of the members of the senate.

Ordered, That the committee of propositions and grievances be discharged from the further consideration of the petition of Elijah Grant, and that the same be committed to messrs. Lackey, J. L. Hickman and Bowmar.

Mr. Owens, from the select committee raised for that purpose, reported a bill authorising a lottery for the benefit of Paris Union Lodge, No. 16; which was read the first time.

The rule being dispensed with, it was read a second time, amended at the clerk's table, and the question being taken on engrossing and reading the bill a third time, it was resolved in the affirmative—Yeas 18, nays 13.

The yeas and nays being required thereon by messrs. Worthington and Perrin, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Ballinger, Bowman, Bowmar, Carneal, Ewing, Given, J. L. Hickman, R. Hickman, Lackey, M'Afee, Owens, Pickett, Pope, Roper, Throckmorton, Ward, White and Williams.

Those who voted in the negative, are, messrs. Barbee, Beauchamp, Carpenter, Crutcher, Davidson, Dawson, Faulkner, Ford, Gorin, Perrin, Smith, Weir and Worthington.

The bill having been engrossed, and the rule being again dispensed with, it was read a third time.

Resolved, That the said bill pass, and that the title be "an act authorising lotteries for the benefit of Paris Union Lodge No. 6, and Simpson Lodge No. 31."

Ordered, That Mr. J. L. Hickman carry said bill to the house of representatives and request their concurrence.

The resolution for a division of the public printing, was taken up and read as follows, to wit:

Resolved by the General Assembly of the Commonwealth of Kentucky. That they will, at the present session, elect two public printers, who shall perform the public printing, severally, in such portions as may be hereafter directed or assigned to each.

And the question being taken on the adoption thereof, it was resolved in the negative—Yeas 14, nays 20.

The yeas and nays being required thereon by messrs. Dawson and Perrin, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Barbee, Beauchamp, Carneal, Carpenter, Crutcher, Given, R. Hickman, Marshall, Mountjoy, Owens, Pope, Slaughter, Weir and Worthington.

Those who voted in the negative, are, messrs. Ballinger, Bowman, Bowmar, Davidson, Dawson, Ewing, Faulkner, Ford, Gorin, J. L. Hickman, Lackey, M'Afee, Perrin, Pickett, Roper, Smith, Throckmorton, Ward, White and Williams.

Mr. Ewing made the following report, to wit:

"The committee consisting of the senators and representatives from the counties composing the Princeton branch bank district, one of the branches of the Commonwealth's Bank, have had the subject under consideration, and beg leave to make the following report, viz:

The paper has been distributed (so far as we have been able to discover) to the several counties and among the several individual applicants, according to the principles of the charter; and that the loans, in the opinion of your committee, are well secured.

Your committee have not been able to discover, that any person has directly or indirectly borrowed larger sums than authorised by law.

From the Senate, YOUNG EWING,
DICKSON GIVEN,
W. R. WEIR.
WM. WORTHINGTON.

From the House of Representatives,
JAS. C. CRAVENS,
JOHN S. ANDERSON,
JOHN PENDLETON,
WM. GORDON,
JOHN S. EAVES,
H. M'CRACKEN,
WM. THOMPSON.

Mr. Slaughter made the following report, to wit :

The committee consisting of the senators and representatives from the counties composing the Bowling Green bank district, one of the branches of the Commonwealth's Bank, have had the subject under consideration, and beg leave to make the following report, viz.

That the paper of the bank has been distributed (so far as we have been able to discover) to the several counties, and among the several individual applicants, according to the principles of the charter establishing said bank ; and that the loans, in the opinion of your committee, are generally well secured. Your committee have not been able to discover that any person has, directly or indirectly borrowed larger sums than is authorised by law.

From the Senate, THO. S. SLAUGHTER,
ANAK DAWSON.

From the House of Representatives,
R. F. SLAUGHTER,
A. BUTLER,
JOHN HARRELD,
JOHNSON J. COCKRILL,
W. LYNCH,
P. N. O'BANNON,
S. S. BROOKING.

Mr. Perrin made the following report, to wit :

The committee consisting of the senators and representatives of the second judicial district, having examined the report from the branch bank of the Commonwealth of Kentucky at Falmouth, report as follows :

The paper of said branch has been correctly apportioned and safely loaned in the senatorial districts they represent ; and the principles of the charter have not been violated, within their knowledge.

From the Senate, WM. MOUNTJOY,
THOS. THROCKMORTON,
THOS. D. CARNEAL,
JOSEPHUS PERRIN,
J. J. MARSHALL.

From the House of Representatives,
ALEX. P. SANDFORD,
STEPHEN MULLENS,
S. GRIFFITH,
BEN. JOHNSON,
HUGH WILEY,
BEN. WARFIELD,
W. M'CLANAHAN,

An engrossed bill to revive the law against champerty and maintenance, was read a third time; and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 18, nays 15.

The yeas and nays being required thereon by messrs. Beauchamp and Carpenter, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Barbee, Beauchamp, Bowmar, Carpenter, Crutcher, Faulkner, Given, Gorin, J. L. Hickman, R. Hickman, Lackey, M'Afee, Mountjoy, Perrin, Pickett, Throckmorton, Williams and Worthington.

Those who voted in the negative, are, messrs. Ballinger, Bowman, Carneal, Davidson, Dawson, Ewing, Ford, Marshall, Owens, Pope, Roper, Smith, Ward, Weir and White.

Resolved, That the said bill pass, and that the title be "an act to revive the law against champerty and maintenance."

Ordered, That Mr. Carpenter carry said bill to the house of representatives and request their concurrence.

Bills from the house of representatives of the following titles, to wit: 1. An act to appoint additional justices of the peace in the counties of Mason and Rockcastle; 2. an act to alter the place of holding elections in the Eagle precinct in the county of Gallatin, and the Walnut Grove precinct in Mercer county; 3. an act for the relief of the sheriff of Shelby county; 4. an act for the benefit of Richard Clark and Samuel Curswell; 5. an act for the benefit of Culvin Sanders and Elizabeth Davenport; 6. an act to amend and repeal in part an act entitled an act for establishing and laying off a town at the Iron Banks, approved December 27, 1820; and 7. an act for the divorce of sundry persons; were severally read the first time.

The rule being dispensed with, they were read a second time; the fifth was amended at the clerk's table, and the five former were read a third time.

Resolved, That the said bills pass, the fifth as amended, and that the clerk inform the house of representatives thereof and request their concurrence in the amendment.

The sixth bill was committed to messrs. Carneal, M'Afee, Roper, White, Given and Pope; and the seventh to messrs. Bowmar, Carneal and Owens.

Engrossed bills, to wit: 1. A bill to prevent swindling; 2. a bill to provide for the sale of the real estate of Thomas Davis, deceased; and an act concerning civil proceedings in certain cases; were read a third time.

The question being taken on the passage of the first, it was resolved in the affirmative—Yeas 19. nays 11.

The yeas and nays being required thereon by messrs. Beauchamp and Carpenter, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Barbee, Beauchamp, Carpenter, Crutcher, Faulkner, Ford, Given, Gorin, J. L. Hickman, R. Hickman, Lackey, M'Afee, Mountjoy, Perrin, Pickett, Pope, Smith, Williams and Worthington.

Those who voted in the negative, are, messrs. Ballinger, Bowman, Bowmar, Carneal, Davidson, Dawson, Owens, Roper, Ward, Weir and White.

Resolved, That the two former bills pass, and that the titles be, respectively, "an act to prevent swindling," and "an act to provide for the sale of the real estate of Thomas Davis, deceased."

Ordered, That the clerk carry said bills to the house of representatives and request their concurrence.

The question being taken on the passage of the latter bill, it was resolved in the negative; and so the said bill was rejected.

A bill to amend the several acts relative to lunacy, was read a second time. The bill having been engrossed, and the rule being dispensed with, it was read a third time.

Resolved, That the said bill pass, and that the title be "an act to amend the several acts relative to lunacy."

Ordered, That the clerk carry said bill to the house of representatives and request their concurrence.

And then the senate adjourned.

WEDNESDAY, DECEMBER 12, 1821.

The senate assembled.

Mr. Pope, from the select committee to whom was referred a bill from the house of representatives, entitled "an act authorising the county courts of Bracken, Mason and Fayette to purchase and erect buildings for the accommodation of their poor," reported the same with an amendment in lieu of the bill, which was concurred in and the bill read a third time as amended.

Resolved, That the said bill pass, and that the title be amended to read "an act authorising the county courts to erect houses for the accommodation of their poor."

Ordered. That mr. Throckmorton inform the house of representatives thereof, and request their concurrence in the amendments.

A message from the house of representatives, by MR. M'Clanahan :

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled “an act for the benefit of the sheriffs of Wayne and Campbell counties;” and they have passed bills of the following titles, to wit: An act for the benefit of Champ Mullins, of Rockcastle county; an act for the division of Floyd county; an act for the benefit of the clerk of the Nicholas circuit court, and for other purposes; and an act for the benefit of the heirs of Archibald Marshall, deceased; in which they request the concurrence of the senate.

And then he withdrew.

On the motion of mr. Owens, leave was given him to report a bill to repeal all laws requiring circuit judges to reside within their respective districts; which was read the first time and ordered to be read a second time.

A message from the house of representatives, by MR. Brents :

Mr. Speaker—The house of representatives have passed a bill entitled “an act to regulate the times of holding circuit courts, county courts and the general court in this commonwealth;” in which they request the concurrence of the senate.

And then he withdrew.

The following reports were made, to wit :

The joint committee appointed to examine the report of the branch of the Bank of the Commonwealth at Harrodsburg, in the 9th district, composed of the counties of Mercer, Washington, Casey, Garrard and Jessamine, report :

That they have carefully examined the list of debtors to said institution, and find that the proper number of securities have uniformly been required, and that the loans have been generally extended to every quarter of the district, and are well secured, as your committee have not been able to point out any one which is not so.

It appears that said district has received its due proportion of money, so far as it was received, from the principal bank; and that the said branch went into operation at as early a day as possible, after the money was received. This

your committee are proud to say, resulted from the extraordinary zeal and industry of the president and officers of said branch.

The president and directors, we believe, have faithfully attended to the interests of said bank and the great objects which the legislature had in view. None of them have received on loan a greater amount than was allowed; neither has any individual been permitted to transcend his limits, as far as we have been able to ascertain. Very few received the whole amount, and in the general, the loans were no greater than the absolute necessities of the borrower demanded—many of them not exceeding twenty five dollars.

Your committee cannot close this report, without remarking, that the report made by the officers of said branch, exhibits an attention to the duties of their respective stations, highly creditable to themselves and the institution.

From the Senate,

ROBT. B. M'AFEE, *Ch'n.*
 HERMAN BOWMAR.
 JEROBOAM BEAUCHAMP,
 JOHN FAULKNER.

From the House of Representatives,

T. P. MOORE,
 JOHN YANTIS,
 D. G. COWAN,
 D. C. COSBY,
 JAMES CLARK,
 JOHN POPE,
 JOHN JACKMAN,
 SAMUEL E. M'ELROY,
 BENJ. MASON.

The committee consisting of the senators and representatives from the counties of Montgomery, Bath, Greenup and Floyd, composing the Mountsterling bank district, one of the branches of the Commonwealth's Bank, have had the subject under consideration, and beg leave to make the following report, viz.

That the paper of said branch bank has been distributed (so far as we have been able to discover) to the several counties, and amongst the several applicants, according to their necessities and the principles of the charter establishing said bank; and that the loans, in the opinion of your committee, are generally well secured. Your committee have not been

able to discover that any person has, directly or indirectly, borrowed a larger sum than is authorised by law.

From the Senate.

SAMUEL L. WILLIAMS,
ALEXANDER LACKEY,
THOMSON WARD.

From the House of Representatives,

HORATIO CATLETT,
SAMUEL MAY,
JOHN MASON, JR.
THOMAS FLETCHER,
J. PAYNE.

A message from the house of representatives, by Mr. Yantis :

Mr. Speaker—The house of representatives are now ready to proceed, by a joint vote with the senate, to the election of the several officers whose elections are fixed for this day.

And then he withdrew.

Ordered, That Mr. Perrin inform the house of representatives that the senate are ready to proceed in said elections.

The senate then proceeded to the election of a treasurer, public printer, presidents and directors to the Bank of Kentucky and to the Bank of the Commonwealth of Kentucky.

After exchanging nominations with the house of representatives, and taking a vote on the several nominations, and a comparison thereof by a joint committee appointed for that purpose, the following persons were declared duly elected to the several offices, to wit :

Samuel South, treasurer, unanimously.

Kendall and Russell, public printers.

John Harvie, president of the Bank of Kentucky ; and Daniel Weisiger, John M'Kinney, jun. Alexander J. Mitchell, Henry Crittenden, Achilles Sneed and Abram Ward, directors on the part of the state.

John J. Crittenden, president of the Bank of the Commonwealth, unanimously ; and George B. Knight, Willis Field, Francis P. Blair, James Bartlett, Jacob Swigert, Jephthah Dudley, Amos Kendall, Samuel B. Crockett, Joseph Scott, Lyddall Wilkinson, Samuel Todd and Samuel Tevis, directors.

The senate then exchanged messages with the house of representatives, and proceeded to the election of the presidents and directors of the several branches of the Bank of the Commonwealth ; and the committee on the part of the senate retired to compare the votes.

The senate received from the governor, by Mr. Anderson, two messages in writing. The rule being dispensed with, one was taken up and read as follows, to wit:

Gentlemen of the Senate,

I nominate for your approbation, Thomas Todd, George M. Bibb, John Harvie, Achilles Sneed, Jephthah Dudley and John J. Crittenden, as securities for Samuel South, the treasurer elect, the ensuing year.

JOHN ADAIR.

December 12th, 1821.

Resolved, That the senate advise and consent to said securities, and that messrs. Owens and Mountjoy inform the governor thereof.

And then the senate adjourned.

THURSDAY, DECEMBER 13, 1821.

The senate assembled.

Mr. White, from the select committee to whom was referred a bill concerning conveyances of land, reported the same without amendment; and the question being taken on engrossing and reading said bill a third time, it was resolved in the negative; and so the said bill was rejected.

Mr. Bowmar, from the select committee raised for that purpose, reported a bill for the benefit of part of the legatees of Tunstall Quarles, deceased; which was read the first time.

The rule being dispensed with, it was read a second time, and committed to the committee for courts of justice.

Mr. Roper, from the select committee to whom was referred resolutions from the house of representatives, concerning the occupying claimant laws, and the decision of the supreme court of the United States thereon, reported the same without amendment; and the preamble and resolutions were read as follows, to wit:

The committee to whom was referred that part of the governor's message which relates to the laws concerning occupying claimants of land, and the late decision of the Supreme court of the United States thereon, beg leave to report:

That it appears to your committee, that at the last term of the supreme court of the United States, in the case of *John Green*, plaintiff, against *Richard Biddle*, defendant, an opinion was pronounced by the said court, in which the acts of this commonwealth, passed on the 27th day of February 1797, and of the

1st day of January 1812, concerning occupying claimants of land, are declared to be unconstitutional and void, upon the ground, that the said acts are violations of the 7th article of the compact between this state and the state of Virginia, that compact being a part of the constitution of Kentucky.

These laws have long since received the sanction of the highest judicial tribunals of this commonwealth, and have governed the proceedings of the superior courts in all cases coming within their provisions. They have become the rule and basis of numerous contracts and compromises, and in faith of which the lands of the state have been improved and cultivated.—Virginia has not complained of them as violations of the compact; but, on the contrary, has long acquiesced in their enforcement.

Your committee have ascertained, that no counsel appeared in the supreme court for Biddle, or in support of the laws in question; and they have good reason to believe, from information received, that Biddle had no interest in the case; that it had been long before settled between the parties; and that Biddle purchased the land in controversy some years before the argument of this case in the supreme court. The committee are satisfied, that the parties have no interest in the case decided, and that the object of those concerned in its prosecution and management, was to obtain from the court a decision against the validity of those laws.

This opinion of the court has been suspended until the next term for further consideration and argument. It will, if confirmed, not only implicate the character of the state, in having violated her solemn engagements with the parent state, but must deeply affect a large portion of our most meritorious citizens.

Your committee are aware of the delicacy and caution with which the decisions of the judicial tribunals should be questioned by the legislature, especially in cases involving the rights of individuals. They feel, however, in a great degree relieved from any embarrassment on this point, from a conviction of the fact, that the case of Green and Biddle, if not in its origin, is at this time not a real, but fictitious one.

The people of the several states, and of the United States, have distributed the powers of government among different departments or bodies of magistracy, and their faithful and harmonious co-operation is essential to the peace, safety and freedom of the people. They mutually check and aid each other. Mutual forbearance and respect are necessary and proper. Allowances are to be made for those ordinary errors which are incident to men in every situation. Neither department should question or arrest the acts of another for slight causes. But forbearance and acquiescence have their limits. If the legislature pass an act clearly unconstitutional, and the case ought to be a clear one, the judiciary may refuse to carry it into effect. The people have not made the judges a board of censors, to correct legislative folly and

error, but to secure to the citizens a fair and impartial administration of justice, according to the laws. It is equally the duty of the legislature and the judges, to regard the constitution. Those selected by the people to exercise legislative power, are bound to keep within the pale of the constitution, and are responsible to the people for a violation. They must construe the constitution according to their best judgments; and after they have given a construction, and passed a law, the case ought to be a strong one to authorise the court to defeat its operation. And if the judiciary should transcend its legitimate limits, and impair the prerogatives of the legislature, on subjects of vital importance, it will be the duty of the legislature to interfere. Mutual forbearance preserves harmony; and cautious, discreet resistance is necessary to keep each department within its proper sphere of action.

On a question of such vital importance to the good people of this commonwealth, your committee deem it the duty of the legislature to maintain the validity of their laws, in a manner respectful to the supreme court of the nation, and regardful of the dignity of the state and interests of the people.

Your committee, after the most mature consideration are unanimously of opinion, that the acts of 1797 and 1812, concerning occupying claimants of land, are constitutional and valid, and founded in justice and sound policy. The committee have thought it their duty to examine in a concise manner the principles and reasoning of the court, in the opinion referred to, and the justice and policy of the laws.

The 7th article of the compact, which is relied on by the court, is in the following words—"That all private rights and interests of land within the said district, derived from the laws of Virginia prior to such separation, shall remain valid and secure under the laws of the proposed state, and shall be determined by the laws now existing in this state."

The court, in their opinion, say, that if the only intent of this article was to preserve to claimants of land a determination of their titles by the laws under which they were acquired, it is a mere nullity; because, they say, by the general principles of law, titles to real estate can be determined only by the laws of the state under which they were derived; and that a title good by those laws, cannot be disregarded, but by a departure from the first principles of justice.—They therefore suppose the words *rights and interests of lands*, mean more, or something else, than they fairly import or ever have been understood to imply.

The position assumed by the court, that every civilized nation ought to regard justice, will not be controverted. The only inference drawn from it by the court, is, that as Virginia must have presumed that Kentucky would have regarded justice, the stipulation was unnecessary. However this sort of confidence may regulate the conduct of friends and acquaintances in private

life, it does not seem to have been entirely relied on by independent nations, in their compacts with each other. It is believed, that in most treaties of cession between them, the ceding party has not trusted exclusively to the influence of the general principles of justice, but has required an express stipulation in favor of the people of the ceded territory. The 3d article of the treaty between the United States and France, by which the latter ceded the territory of Louisiana to the former furnishes an example of this kind. It is done from abundant caution, and to impose higher and more definite obligations than are to be found in the moral code. Such, in fact, were no doubt the considerations which induced Virginia to insert the 7th article. The plain and common sense meaning of it, as it has been understood by the parties and the people generally, is, that the private rights and interests of land derived from the laws of Virginia, should be valid and secure under Kentucky; and that the laws of Virginia were to furnish the rule for the decision of those rights and interests. Such has been the construction given to this article of the compact, by the courts here; and the opinion and reasoning of our court of appeals on the constitutionality of our occupying claimant laws, in the case of Fowler against Halbert, reported in the 4th volume of Bibb's Reports, is believed to be correct and unanswerable.

To use the language of the supreme court, "it would be a mockery of common sense and the principles of equal justice, to suppose, that this article was intended not only to guarantee the rights of claimants under the laws of Virginia, but to exempt them from the obligations, burdens and municipal regulations to which all other claimants were liable. The principle of equal justice has been strictly observed, and our laws operate on all, as well those who claim under the laws of Virginia, as those who derive titles under the laws of Kentucky; and if the welfare and policy of the state required their passage, no class of claimants have any just ground of complaint. Of that policy, it was the exclusive prerogative of Kentucky to judge; nor can the owner of property within her jurisdiction and under her protection, rightfully claim an exemption from its operation.

That Virginia had, in this compact, an eye to the principle of equality, and nothing more, is evident from the 8th article, in which she stipulated for an equality of taxation; for it yielded an equivalent, by reciprocating that equality in regard to the lands of Kentuckians situate in Virginia. The last branch of this article is more conclusive on the subject, by which it is expressly stipulated, "that a neglect of cultivation or improvement of any land within either the proposed state or this commonwealth, belonging to non-residents, citizens of the other, shall not subject such non residents to forfeiture or other penalty, within the term of six years after the admission of said state into the federal Union."

Virginia was aware of the quantity of unsettled lands in Kentucky, and of the necessity and policy of having them settled. She was aware, also, of the power of Kentucky to coerce their improvement and cultivation, and stipulates for her citizens, an exemption from it for the term of six years only; and yet the supreme court imply, in the 7th article, a perpetual exemption.

Your committee would here beg leave to remind the supreme court of one of the best settled rules of construction known to jurists, "that every special limitation upon the general and common laws and rights of a people, is to be construed strictly;" and in no case ought that rule to be applied with mere rigor, than to a limitation in derogation of the general powers and sovereignty of a government.

This general view would seem to be sufficient to silence all doubt as to the true intent and meaning of the 7th article of the compact; but it may be proper to examine the literal import of the words upon which the court rely. They seem to place much stress on the omission of the word *title*, in the compact, and to draw a distinction between the meaning of the words *rights and interests, and titles*; but your committee cannot perceive the force of the argument, or the effect of the distinction attempted by the court. The words, rights and interests, as used in the compact, admit of no ambiguity. The word, right, in the language of jurists, means a good or perfect title—in the compact it means, that kind of right or title which is derived from the laws of Virginia. The word, interest, when applied to land, is generally understood to import an inchoate, imperfect, or partial right. The land laws of Virginia ought to furnish the best exposition in relation to the sense in which it should be understood in the compact. The word, right, is applied in the land law to both imperfect and complete title. Settlement rights and pre-emption rights, are mentioned; and in the provision respecting caveats, the word, right, is used in reference to a title by entry or patent, because either will authorize a caveat. The words, right and title, in common parlance, in statutes and law writers, are often used as synonymous terms. There are various gradations of title; but in strictness, a man cannot be said to have a right to property, who has not a good title; and the omission of the word title, will not authorize the conclusion drawn by the court. There is no foundation for supposing that the parties to the compact meant, by rights and interests, any thing different and distinct from the titles.

A retrospect of the condition of things at the period of our separation from Virginia, will, it is believed, explain very satisfactorily, the true meaning of the words, rights and interests, as used in the 7th article of the compact.

Under the laws of Virginia, lands were appropriated by entries with the surveyor, upon warrants previously purchased

from the land office. A great part of the lands located by entry, had not been carried into grant. The compact, or rather the law of Virginia, containing the terms and conditions of separation, bears date on the 18th day of September, 1799. By the 9th article, the holders of treasury warrants were secured the right of locating them until the first day of September, 1792; and by the 13th article, the right to locate military warrants, was secured until the first day of May in the same year. Upon the erection of Kentucky in'o an independent state, the sovereignty of Virginia ceased within the limits of Kentucky, and the owners of any right or interests of land, whether by warrant, entry or survey, had to look to Kentucky for a consummation of their titles; and it was certainly proper and prudent in Virginia, to require an express stipulation in their favor, and for preserving to all claimants under her, a determination according to her laws.

That the compact is susceptible of no other construction than the one given by the legislature and courts of this commonwealth, and has no reference to the rule of compensation for improvements, is very evident to your committee. Nor is it probable, that Virginia would have required a perpetual exemption of land acquired under her laws, from the operation of those rules of justice and policy, which it is incident to sovereignty to impose. Such a requisition would have been inconsistent with that magnanimous and liberal policy, which has ever distinguished her. It is equally incompatible with the principles of our federal association. To each state is guaranteed, a republican form of government, and each ought to have an equal share of sovereignty. It is proper here to mention, that Kentucky was conquered from the savages by the enterprize and valor of the early settlers. She was a part of Virginia—shared with her the toils, dangers and burdens of the revolutionary contest; and is it to be believed, that this great state would have been willing to make her a member of the Union, deprived of that portion of her sovereignty contemplated by the court?—The claims of Virginia are moderate. She recognizes the power of Kentucky to coerce the improvement of her lands, and only asks her to suspend a rigid policy for six years. It is clear, that if Virginia had power to pass an occupying claimant law, Kentucky has an equal right. If the 7th article is considered a contract on the part of Kentucky, for the security of claimants under Virginia, what is the effect of this contract? Is it different in its nature and character, or does it impose higher or more sacred obligations, than that which every government makes with those to whom she sells and grants land? A patent from a state or the general government, is a contract which the government can neither revoke nor impair, according to the decision of the supreme court of the United States, in the case of *Peck vs Fletcher*, involving the validity of the laws of Georgia.

nullifying the Yazoo grants.—A patent is a contract for title, so far as the grantor has it, and for all that use and enjoyment which is incident to the ownership of property subject always to those burdens and that policy, which the welfare of the government which protects it, may impose. The compact with Virginia and the compact with every patentee, are in effect the same; and the opinion and reasoning of the supreme court, if confirmed and acquiesced in, would prevent any state from passing an occupying claimant law. Our laws, when applied to titles derived from Kentucky, impair the obligation of contracts, and are unconstitutional, if the opinion of the supreme court be correct. According to the principle assumed by the court, every law which in its consequences, narrows the rights or diminishes the beneficial interest of the owner, is unconstitutional. If this be true, the law of Kentucky subjecting lands to the payment of debts, as to lands acquired under Virginia, the laws of the several states imposing taxes, and all laws coercing the improvement of waste lands, are unconstitutional. Every law for continuing the time for surveying entries, and changing the laws for the limitation of actions, as well as the laws forfeiting the lands of those who do not list them for taxation, are unconstitutional, if no law can be passed affecting or burdening lands, but what existed in Virginia, at the time of the separation. The farmer who pays a county levy, or works on a public road, may say with the same propriety, that the laws making such requisitions are void, because they diminish the income and beneficial interest of his estate, and thereby impair that contract for its enjoyment, which is implied in every grant from the government.—It should be remembered, that every citizen of a social community, is identified with its general welfare, and whatever burdens that demand, may be rightfully imposed, unless interdicted by some constitutional limitation of power. The doctrine of the supreme court would favor indeed, the speculators in lands in the new states and territories; but how far it comports with the prosperity of those states, deserves consideration.

Land, and the labor bestowed on it, are the chief source of the wealth and strength of an agricultural country. According to the laws of nature and nature's God, the land was intended for man's use and sustenance. The proper intent and end for which ownership is given, is, that it may be appropriated for habitations, cultivation and useful improvements. Society is interested in agricultural industry, and it is going too far to say, that men may hold large tracts of waste and uncultivated territory, and deny to the government the power, by taxation or other measures, to induce them to sell or improve it.—It is man's duty to cultivate, and it is the duty of government to stimulate and protect the improvement and cultivation of a country by just and salutary laws. Upon what other ground can it be contended that the wandering

savages should yield their territory to the culture of civilized man!

What is called the compact with Virginia, is not properly a contract or agreement between two states, as contemplated by the second section of the 10th article of the constitution of the United States. Kentucky was a part of Virginia at the date of this compact, and had no separate political existence. The instrument called a compact, was an act passed by Virginia, proposing the terms and conditions upon which Kentucky might become an independent state; and the people of Kentucky, while a part of Virginia, consented to the terms. The people of Kentucky were permitted to form a constitution, and under that constitution admitted into the Union. Kentucky, in compliance with the terms of separation, made them a part of her constitution, and in no other way did Congress assent to the compact, than by accepting the constitution. Unconnected with, and independent of, this constitution, no compact exists. The articles of this compact being incorporated into our constitution, are so many restrictions upon the legislative power. The court with propriety, treat it as a part of our constitution, and not as a contract between two states. They do not consider our laws as violations of that part of the federal constitution which declares, that no state shall pass any law impairing the obligation of contracts; but as violations of our own constitution, the compact being part of it.

This leads to the enquiry, whether it is competent or proper, for the national tribunals to contravene the exposition of a state constitution, as given by the legislative and judicial authorities of such state. In the case of *Colder and wife against Bull and wife*, involving the constitutionality of a law of Connecticut, Mr. Chase, one of the judges of the supreme court of the United States, says, that he is fully satisfied, that the federal court has no jurisdiction to determine that any law of any state, contrary to the constitution of such state, is void. I should think, says he, that the courts of Connecticut are the proper tribunals to decide.—In this opinion your committee concur. They consider the exercise of such a power by the national tribunals, inconsistent with the harmony of our government, and the principles of our political association, as well as those rules of respect and courtesy observed among civilized nations.

To preserve harmony and uniformity, Congress has given to the national courts a revising power over the state judiciary, on questions of a national character; but with regard to cases arising under the constitution and laws of a state, no such power is delegated; and is there not the same necessity for harmony and uniformity in the states, on state subjects? Suppose a case brought into one of the federal courts, depending upon the laws of a foreign country—would not the court decide according to the laws as expounded by the constituted authorities of that

country? Would not such a course be demanded by justice, propriety and the courtesy due from the tribunals of one nation to those of another? Would an American court contravene the exposition of the Spanish constitution, as furnished by the Cortes and judicial tribunals of Spain? And is less respect and courtesy due to the constituted authorities of an American state? When it is considered, that the states of this Union have the same forms of government, based on the same principles of liberty and equal justice, bound together by political ties and a common feeling and interest, and when in addition to this, we attend to the true spirit and intent of the first section of the 4th article of the federal constitution, which declares, that full faith and credit shall be given in each state, to the public acts, records and judicial proceedings of every other state, it seems to your committee, that the claims of the constituted authorities of a state, to the respect and consideration of our national courts, are higher than those of a foreign country. If the federal courts can indirectly and collaterally reverse or disregard the decisions of the legislature and courts over which they have no direct reversing power, the most serious consequences are to be apprehended. There will be two rules of property and justice in every state, and the collisions and confusion which must follow, will probably ultimate in a surrender of the state governments, or a dismemberment of the American republic.

Your committee will now examine briefly the nature and character of the claim to compensation for improvements, secured to the occupant by the laws in question, and vindicate their justice and policy. The obligation of the proprietor to pay for ameliorations of his estate, by a bona fide possessor, does not depend on the source from which his title is derived; it is surely an obligation incident to the ownership of property innocently improved by the labor of another, and has no relation to the origin of the title. It is founded on the principles of justice and policy common to the civilized world. Every class of citizens derive support and sustenance from agricultural industry, and therefore, every wise government has favoured and protected the honest cultivator of the soil. That the bona fide possessor is entitled to compensation for improvements made before notice of a better title, is recognized by the English and American courts and those of Virginia, both before and since the separation of this from that state. The act of 1797, is not materially variant from the rule adopted in courts of equity. The provision allowing the occupant for improvements made after notice, equal to the rents, was intended to encourage the improvements of a new country, and must be deemed beneficial rather than injurious to the owner.— Without such a provision, the improvement of a large portion of our lands must have been suspended during the tedious controversies in which they were involved. The act of 1812, differs

from that of 1797, in only two points worthy of notice. It gives to the occupant a lien on the possession of the land until paid or secured to be paid, the value of his improvements. This cannot be complained of, considering the residence and circumstances of many of the successful claimants, whose names are often used without any beneficial interest in the suits. If the claim to compensation be well founded, the power of the legislature to give the lien cannot be questioned on constitutional ground. This act differs also from that of 1797 in this, that the occupant is freed from any charge for rents, before notice by judgment or decree, of a better title.

These laws combine the chancery rule with that policy which a new country and peculiar circumstances required. In considering the occupant a *bona fide* possessor until notified, by a court of competent jurisdiction, of a better title the legislature have acted in the spirit of the principle of equity. Instead of leaving the settlers to the arbitrary discretion of courts, it was necessary, by legislative act, to regulate and apply the rule of compensation and rents to the peculiar state of titles, in this country. Notice of a better title, has generally been held to convert a *bona fide*, into a *mala fide* possessor; because, in general, he might, by reasonable diligence and enquiry, ascertain with tolerable certainty, the nature and validity of the adverse claim. But this reason will not hold good in Kentucky, in relation to conflicting titles derived from the land laws. It will only be necessary to look at the actual condition of things, and the manner in which lands were appropriated here, to be convinced of the propriety of the change made by the act of 1812. The land warrants sold by Virginia, were located with the surveyor, without any previous survey or reference to marked boundaries; and the validity and position of these claims depended on rules of construction to be settled by the courts, without previous landmarks to guide them, and on the proof of witnesses greatly dispersed. Owing to the uncertainties growing out of this mode of appropriation, the confliction of claims was unexampled—several patents frequently covering the same land.

Instead of forfeiting the claims of those who were unwilling to hazard their labor and money in clearing the forests under doubtful titles, Kentucky pursued the milder policy of imposing on the dormant and negligent claimants, an obligation to compensate the improver under a conflicting title. There is uncertainty in titles every where; none can be absolutely relied on; but the uncertainty here was peculiar. Most of the claimants who settled their lands, expected to hold them, & could only be undeceived by a legal adjudication. And in the language of Lord Kame, "sad would be the condition of landholders, were they liable, forty years back, for rents which they believed to be their own, and

which, without scruple, they bestowed on procuring the necessities and conveniences of life."

The act of 1812, relative to rents and improvements, does not introduce a new principle; but applies and adapts an old principle to a new and peculiar class of cases. Independent of the general power of government in relation to the improvement and cultivation of their lands, your committee believe the rules for settling rents and improvements between contending claimants, is a subject of domestic policy and municipal regulation; that it is the province of the legislature to prescribe the rules of property, contracts and conduct, and that it is the duty of the courts to regard them; and that it does not belong to the judicial department, to make the rule and adjudicate upon it.

Much of the reasoning of the court is predicated upon the possible hardships and consequential inconveniences which may result from the operation of our laws; and if it be sound, there is an end to legislation. It would seem, indeed, from this opinion, that Virginia intended, by the terms and conditions of our separation, to form those landholders who could trace their titles to her laws, into a select, independent corps, free from the burdens and operations of this government.

It may be proper to notice another part of this opinion. The court say, if the legislature of Kentucky had declared, that the owners of lands should not recover them, without paying a moiety or the whole of their value, or that they should sell at one half or one third of their value, such laws would be unconstitutional. In the language of a distinguished politician, these suppositions of the court, are, in the opinion of your committee, unconstitutional and void. The cases supposed, do not prove any thing on the question before the court. Would it be a fair argument in this legislature, to say, that the court have done wrong because they might do so? Can one department act upon the supposition of an abuse of power by another? The people, in convention, to guard against the possible abuse of power, with regard to certain cardinal principles, have imposed restrictions on legislative power; but the different departments of government ought to act upon the presumption that each will do its duty. The question before the court, was not, whether Kentucky might or might not abuse power, but whether she had exceeded her powers.

Upon a deliberate consideration of the whole subject, your committee are satisfied, that the opinion of the supreme court was the result of an *ex parte* and mistaken view of the principles and justice of our laws, and the true intent and meaning of the compact; and the high respect your committee entertain for that enlightened and dignified tribunal, induces a strong confidence, that upon an unprejudiced review, having an eye to the real circumstances of this country which produced the laws in ques.

tion, they will change that opinion. The magnitude of the question and its consequences demand, in the opinion of your committee, the interference of the general assembly; and they submit to the consideration of the house, the following resolutions:

1. *Resolved by the General Assembly of the Commonwealth of Kentucky,* That they consider the opinion of the supreme court of the United States, delivered at their last term, in the case of John Green plaintiff against Richard Biddle defendant, incompatible with the constitutional powers of this government, and dangerous to the best interests of the people; and therefore, do hereby, in the name of the Commonwealth of Kentucky, and the good people thereof, solemnly remonstrate and protest against said opinion.

2. *Resolved,* That the governor of this commonwealth be requested to transmit copies of the foregoing report and resolution to each of our senators and representatives in congress.

3. *Resolved,* That two commissioners be appointed on the part of this commonwealth, who shall have full power and authority, if they shall deem it necessary or expedient, to repair to the city of Richmond, in Virginia, and open a communication with that government concerning the meaning and execution of the compact between this and that state; to obtain, if practicable, from Virginia, a declaration of her satisfaction with the construction and performance of said compact on the part of this commonwealth; and if such declaration cannot be obtained, to invite a discussion of her objections; and with a view to a final adjustment, to co-operate with Virginia in constituting a board of commissioners, as provided for in the 12th article of the compact.

4. *Resolved,* That the said commissioners be requested to attend the supreme court of the United States, at the next term, and resist the opinion of that court in the case of Green against Biddle, in such manner as they may deem respectful to the court, and consistent with the dignity of this state.

5. *Resolved,* That the election of the two commissioners contemplated by the foregoing resolutions, shall be by a joint vote of both houses.

The resolutions were amended, by striking out the third resolution, and making the fourth resolution to read, "That two commissioners be appointed on the part of this state, who are hereby directed to attend the supreme court of the United States, at their next term, and resist the opinion of that court in the case of Green against Biddle, in such manner as they may deem respectful to the court and consistent with the dignity of this state."

The preamble was then amended in the fifth paragraph, by striking out the words "if not," and inserting "al-

though ;" and striking out "fictitious," and inserting "nominal."

Ordered. That mr. Roper inform the house of representatives thereof, and request their concurrence in the amendments.

The committee appointed on the part of the senate, to compare the votes for the presidents and directors of the Branch Banks of the Commonwealth of Kentucky, reported ; and the following persons were declared duly elected to the several offices, to wit :

Flemingsburg Branch Bank—William P. Fleming, president ; George W. Botts, John D. Stockton, James Alexander, William Hodge, James Morris, Charles Ward, Larkin Anderson and Aaron Owens, directors.

Falmouth—Press G. Kennett, president ; James Wilson, James King, Samuel Huey, Joseph K. Glenn, Isaac Miller, John Baker, Willis Graves and William Clarke, directors.

Lexington—Charles Humphreys, president ; John Bradford, Elisha Warfield, William R. Morton, Thomas Wallace, Matthew Kennedy, Elijah Craig, David Thompson and Samuel M'Hatton, directors.

Louisville—James W. Denny, president ; George W. Chambers, Charles L. Harrison, John Rowan, Benjamin Helm, Benjamin Lawrence, Samuel Brown, Weir Tilford and M. H. Wickliffe, directors.

Hartford—Charles M'Creery, president ; Charles Henderson, Robert Mosely, William Love, Joshua H. Davis, Richard L. Walker, John Murray, James Hillyer and John Field, directors.

Princeton—John H. Phelps, president ; Enoch Prince, Mercer Wadlington, Robert P. Henry, John Gray Joseph R. Given, Berry Hodge, Thomas G. Davis and Willis Morgan, directors.

Greensburg—James Allen, president ; Joseph Akin, Henry Embry, Alexander Miller, Radford Maxey, Elijah Creel, William T. Bush, Gorge T. Wood and Milton King, directors.

Harrodsburg—Samuel Daviess, president ; Joel P. Williams, Beriah Magoffin, David L. M'Kee, Jesse Coffee, William Robertson, Christopher Chinn, John H. Hanley and Nathan H. Hall, directors.

Winchester—James Anderson, president ; Thomas G. Jones, Lewis Grigsby, William Goodloe, Tandy Allen, John Miles, James Simpson, Richard Oldham, jun. and Hugh Talbot, directors.

Mountsterling—George Howard, president; Micajah Harrison, John Williams, James M'Ilheny, James Ward, jr. Samuel D. Everett, Paul Durrett, Thomas D. Owings and Henry B. Mayo, directors.

Somerset—William Fox, president; John Griffin, Adam Wilson, John Chrisman, Joseph Porter, Henry James, Uriah Gresham, Benjamin Eve and Charles Hays, directors.

Bowling-Green—John Loving, president; William Blakey, Alexander Graham, Richard B. Dallam, William I. Williams, James T. Morehead, William Bell, George W. Call and John Wills, directors.

Mr. Williams, from the joint committee of enrolments, reported that they had examined sundry enrolled bills of the following titles, to wit: An act for the benefit of the widow and heirs of John R. Chitwood; an act to authorise the sale of part of the real estate of Alexander Dunbar and Henry E. Wax, deceased; an act for the benefit of Samuel Lewis and others; an act forming the county of Lawrence, out of parts of the counties of Greenup and Floyd; an act to amend the act altering the mode of taking in the lists of taxable property; an act for the benefit of the sheriffs of Wayne and Campbell counties; an act to regulate the Bath seminary, in Bath county; an act for the benefit of the heirs of James M'Knight; an act to legalize the proceedings of the Nelson county court, at their November term 1821; an act for the benefit of the widow and heirs of John Anderson, deceased; an act to amend the law allowing compensation to venire-men and witnesses; and had found the same truly enrolled.

Mr. Flournoy presented the petition of the heirs of John South, deceased, praying that a law may be passed authorising the sale of part of the real estate of their ancestor, for the payment of his debts; which was read and referred to the committee for courts of justice.

Leave was given to report the following bills, to wit:

By Mr. Owens—A bill to amend an act entitled 'an act concerning attorneys for the commonwealth.'

And by Mr. Ward—A bill for the relief of sheriffs.

Which were read the first time, and the former ordered to be read a second time.

The question being taken on reading the latter bill a second time, it was resolved in the negative; and so the said bill was rejected.

A message from the house of representatives, by Mr. Yantis:

Mr. Speaker—The house of representatives are ready to proceed, by a joint vote with the senate, to the election of trustees to the Transylvania University; and the following persons stand in nomination, to wit: James Morrison, chairman; Henry Clay, Col. James Trotter, Thomas Bodley, G. T. Chapman, George Clarke, James Fishback, Elisha Warfield, E. J. Winter, Charles Humphreys, E. Bullock, John W. Hunt and Andrew F. Price.

And then he withdrew.

Ordered, That Mr. Owens inform the house of representatives that the senate are ready to proceed in said election.

The senate proceeded in said election, and messrs. Owens and Crutcher were appointed a committee on the part of the senate, to meet a committee from the house of representatives, compare the votes and report the result.

The committee retired, and after some time reported, that the persons in nomination had received an unanimous vote; whereupon they were declared duly elected trustees of the Transylvania University.

A message from the house of representatives, by Mr. White:

Mr. Speaker—The house of representatives have passed a bill entitled "an act imposing a duty on sales at auction in the county of Jefferson, for the benefit of the Louisville Hospital;" in which they request the concurrence of the senate.

And then he withdrew.

The bill was read the first time. The rule being dispensed with, it was read a second time and committed to messrs. Pope, Carneal and J. L. Hickman.

A bill to amend and repeal in part an act entitled "an act to amend and extend the charter of the Bank of Kentucky," together with the amendment reported by the select committee as a substitute for the bill, was taken up and the amendment amended at the clerk's table.

The second section of the amendment was read as follows, to wit:

"Any debtor or debtors to the said corporation, may at any time within one year from the passage of this act, pay his, her or their debt or debts in stock of the said bank, upon the terms prescribed in the foregoing section."

Mr. Carneal moved to amend the amendment, by striking out said section; and the question being taken thereon, it was resolved in the negative—Yeas 3, nays 30.

The yeas and nays being required thereon by messrs. Carneal and Carpenter, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Carneal, Davidson and Dawson.

Those who voted in the negative, are, messrs. Anderson, Barbee, Beauchamp, Bowman Bowmar, Carpenter, Crutcher, Ewing, Faulkner, Ford, Given, Gorin, J. L. Hickman, R. Hickman, Jones, Lackey, Marshall, M'Affee, Mountjoy, Perrin, Pickett, Roper, Slaughter, Smith, Throckmorton, Ward, Weir, White, Williams and Worthington.

The sixth section of the amendment was then read as follows, to wit :

"The said corporation may bank upon the bills of the Bank of the Commonwealth of Kentucky, and with the said bills discount notes, buy bills of exchange, receive deposits, and do all things which they might do in ordinary legitimate banking ; but it shall not be lawful for the said Bank of Kentucky to issue, in discount of notes or purchase of bills of exchange, the notes or bills of the said Bank of Kentucky ; and all further banking powers, except as herein provided as aforesaid, shall cease after the last day of December next ; and the said president and directors shall take the necessary steps to wind up the concerns of the same as soon as practicable, under the provisions of the extended charter ; and in no case shall they hereafter loan to any one individual or copartnership, more than one thousand dollars."

Mr. Beauchamp moved to amend the section, by striking out the words in *italics* ; and the question being taken thereon, it was resolved in the negative—Yeas 5, nays 28.

The yeas and nays being required thereon by messrs. Beauchamp and Throckmorton, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Beauchamp, J. L. Hickman, Perrin, Throckmorton and Worthington.

Those who voted in the negative, are, messrs. Anderson, Ballinger, Barbee, Bowman, Bowmar, Carpenter, Crutcher, Davidson, Dawson, Ewing, Faulkner, Ford, Given, Gorin, R. Hickman, Jones, Lackey, Marshall, M'Affee, Mountjoy, Pickett, Roper, Slaughter, Smith, Ward, Weir, White and Williams.

The said amendment being amended at the clerk's table, the amendment as amended was concurred in, and the bill ordered to be engrossed and read a third time.

Bills from the house of representatives of the following titles, to wit : 1. An act giving further time to return plats

and certificates of survey; 2. an act for the benefit of the heirs of William Allen, deceased; and 3. an act for the division of Floyd county; were severally read the first time.

The rule being dispensed with, they were read a second time. The first was committed to messrs. Owens, Jones and Faulkner; the second to messrs. Flournoy, Marshall and White; and the third to messrs. Lackey, Ward and Roper.

Ordered. That all the bills laid on the table indefinitely, be placed in the orders of the day.

And then the senate adjourned.

FRIDAY, DECEMBER 14, 1821.

The senate assembled.

Mr. Barbee, from the joint committee of enrolments, reported that they had examined sundry enrolled bills of the following titles, to wit: An act for the benefit of Polly Martin; an act to alter the place of holding elections in the Eagle precinct in the county of Gallatin, and the Walnut Grove precinct in Mercer county; an act for the benefit of Joel Morrison; an act to appoint additional justices of the peace in the counties of Mason and Rockcastle; an act for the benefit of Richard Clark and Samuel Curswell; an act for the relief of the sheriff of Shelby county; and had found the same truly enrolled.

A message from the house of representatives, by Mr. Yantis:

Mr. Speaker—The Speaker of the house of representatives having signed sundry enrolled bills, I am instructed to lay the same before the senate, for the signature of their Speaker.

And then he withdrew.

Whereupon the Speaker signed said bills, being the same reported on yesterday and to day, and they were delivered to the joint committee of enrolments, to be laid before the governor for his approbation and signature.

And Mr. Barbee, from said committee, reported that they had performed that duty.

Ordered. That a message be sent to the house of representatives, requesting leave to withdraw resolutions from that house, concerning the occupying claimant laws, and the decision of the supreme court of the United States.

thereon, together with the amendments made by the senate; and that Mr. Ewing carry said message.

A message from the house of representatives, by Mr. Pope :

Mr. Speaker—The house of representatives give leave to withdraw the resolutions concerning the occupying claimant laws, and the decision of the supreme court of the United States thereon, together with the amendments made by the senate.

And then he withdrew.

The vote adopting the amendments to said resolutions was re. considered, and they were withdrawn, and the preamble and resolutions concurred in.

Ordered. That Mr. Ewing inform the house of representatives thereof.

Mr. Jones, from the select committee to whom was referred a bill to amend the law concerning executions, reported an amendment in lieu of the bill, which was concurred in and the bill ordered to be engrossed and read a third time.

Mr. Flournoy, from the select committee raised for that purpose, reported a bill to amend and explain an act entitled "an act giving further time to enter lands for the payment of taxes;" which was read the first time.

The rule being dispensed with, it was read a second time and committed to messrs. Bowman, M'Afee and Flournoy.

Mr. Owens, from the joint committee appointed to examine and report the state of the auditor's office, made the following report, to wit :

The joint committee of the senate and house of representatives, appointed to examine the auditor's office, have performed that service. They have with great care and labor examined all the evidence and vouchers in support of each charge against the state, in the year ending the 10th day of October 1821, and find all the charges properly supported by legal vouchers and evidence. They also find that the receipts correspond with the books of the treasury. They compared the general account, as stated in the auditor's books, with his report made to the legislature on the third day of the present session; and they find a perfect correspondence between the books and said report. They therefore deem it unnecessary to accompany this report with a detailed statement of the particular items and charges, as it would be but a repetition of the auditor's report.

Your committee think it due to that department, to state, that the whole of the business has been done with great accuracy, neatness, and in an excellent manner.

They have also examined the expenditures made by the governor, on the government house and lot, by virtue of an act providing for the repairing and furnishing the government house, and for other purposes, approved November the 9th, 1820, and find that many valuable improvements have been made, of good and lasting materials, in conformity to said recited act; and for that purpose the governor drew from the treasury the sum allowed by said act; that he has expended, in the improvements aforesaid, the sum of \$1801 55, leaving a balance in his hands of \$198 45 cents. They also find that he has commenced a brick wall in front of the government house, which is not finished, nor is any part of it paid for; the brick-work of which will, when finished, cost about \$387, which is \$188 more than was appropriated by the before recited act. They further find that he contemplates capping said wall with suitable stone from the penitentiary, and complete the same by cast iron railing; which, if done, would make it durable and permanent, and well become the place; the cost of which, your committee are advised, would be about \$500. They also find there are yet some repairs necessary to be done to the kitchen belonging to the government house, which will cost about the sum of \$100. All of which repairs, your committee are of opinion, ought to be done, and that an appropriation ought to be made; and for that purpose they beg leave to introduce a bill.

From the Senate,

WILLIAM OWENS,
ANAK DAWSON,
THOS. THROCKMORTON,
THOMSON WARD.
JOHN L. HICKMAN.

From the House of Representatives,

SAMUEL BRENTS,
S. BARNETT,
RICHARD I. MUNFORD,
WILLIAM GORDON,
JAMES M. COGSWELL,
LIBERTY GREEN,
J. R. WITHERSPOON,
BEN. DESHA.

And Mr. Owens, from said committee, reported a bill pursuant thereto; which was read the first time.

The rule being dispensed with, it was read a second time, and having been engrossed, was read a third time.

Resolved, That the said bill pass, and that the title be "an act authorising certain repairs and improvements to be made to the government house and lot."

Ordered, That Mr. Owens carry said bill to the house of representatives and request their concurrence.

The following reports were made, to wit :

The committee consisting of the senators and representatives from the counties in which the principal Bank of the Commonwealth of Kentucky is located, have had the subject under consideration, and beg leave to make the following report, viz :

That the paper has been distributed (so far as we have been able to discover) to the several counties and individual applicants, according to the principles of the charter ; and that the loans, in the opinion of your committee, are well secured. Your committee have not been able to discover that any person has, directly or indirectly, borrowed larger sums than are authorised by law.

From the Senate,

JAMES FORD.
DAVID WHITE,
HERMAN BOWMAR,
JOHN J. MARSHALL.

From the House of Representatives,

GEORGE PEARCY,
JOHN YOUNGER,
JAMES M'CONNELL,
JOHN BUFORD,
JOHN H. TODD,
BEN. TAYLOR,
WILLIAM LOGAN,
W. O. BUTLER,
JOSEPH LECOMPTE,
C. H. ALLEN.

The committee composed of the senators and members of the house of representatives from the counties forming the first judicial district, in which the Flemingsburg Branch Bank of the Commonwealth of Kentucky is located, have had under consideration the manner in which said branch bank has been conducted, and make the following report, to wit :

Said bank has received its due proportion of the notes issued by the principal bank ; that the several counties in

said district have received their proper portions of said notes, according to the provisions of the charter; and that the loans have been made in pursuance of the spirit and policy of the charter, and are well secured.

From the Senate,

JOHN PICKETT,
WILLIAM P. ROPER.

From the House of Representatives,

JAMES CRAWFORD,
JOHN TAYLOR,
BEN. DESHA,
J. A. SLACK,
JOHN H. RUDD,
HORATIO BRUCE.

The senators and representatives of the third judicial district, composed of Fayette and Scott counties, have had under consideration the manner in which the Lexington Branch of the Commonwealth's Bank has been managed, and find that said branch has received its due proportion of notes issued; that both counties have received their due proportions, and that the loans have been made in pursuance of the intention of the charter, and are believed to be well secured.

From the Senate,

M. FLOURNOY,
RODES SMITH.

From the House of Representatives,

J. E. DAVIS,
T. H. BRADFORD,
J. R. WITHERSPOON,
JAMES PATTERSON,
GEORGE SHANNON.

The following bills from the house of representatives were reported from the several select committees to whom they were referred, to wit:

By Mr. Pope—1. An act imposing a duty on sales at auction in the county of Jefferson, for the benefit of the Louisville Hospital.

By Mr. Lackey—2. An act for the division of Floyd county.

By Mr. Flournoy—3. An act for the benefit of the heirs of William Allen, deceased.

And by Mr. Owens—4. An act giving further time to return plats and certificates of survey.

With amendments to the two former, which were concurred in, and the bills were read a third time.

Resolved, That the said bills do pass, the two former as amended.

Ordered, That mr. Pope inform the house of representatives thereof, and request their concurrence in the amendments.

Mr. Roper read and laid on the table the following resolution, to wit :

Resolved by the General Assembly of the Commonwealth of Kentucky, That they will, on the 17th instant, by joint vote, appoint two commissioners, agreeably to "resolutions concerning the occupying claimant laws, and the decision of the supreme court of the United States thereon."

The rule being dispensed with, it was taken up, twice read and adopted.

Ordered, That mr. Roper inform the house of representatives thereof, and request their concurrence.

Leave was given mr. Williams to report a bill to alter the mode of appointing trustees to the Montgomery academy ; which was read the first time.

The rule being dispensed with, it was read a second time, and having been engrossed, was read a third time.

Resolved, That the said bill pass, and that the title be "an act to alter the mode of appointing trustees to the Montgomery academy."

Ordered, That mr. Williams carry said bill to the house of representatives and request their concurrence.

The senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, mr. Barbee in the chair ; and after some time spent therein, mr. Speaker resumed the chair, and mr. Barbee reported, that the committee had, according to order, had under consideration a bill from the house of representatives, entitled "an act to establish a literary fund, and for other purposes," and had gone through the same with amendments, which he handed in at the clerk's table, where the same were twice read and concurred in.

The 8th section of the bill was then read as follows, to wit :

"That for the purpose of enabling the trustees of the Centre College of Kentucky to purchase a library and philosophical apparatus, the one third of the clear profits of the Branch Bank of the Commonwealth of Kentucky at Harrodsburg, so far as the same is derived from the borrowers

who reside in the county of Mercer, be, and the same are hereby appropriated, for and during the term of two years, to commence on the first day of January next; and the same shall be paid over by the cashier of said branch, semi-annually, to the order of the board of trustees of said college."

Mr. Beauchamp moved to amend the bill by striking out said section, and it was resolved in the negative—Yeas 12, nays 21.

The yeas and nays being required thereon by messrs. Beauchamp and Anderson, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Beauchamp, Crutcher, Ford, Gorin, Jones, Perrin, Slaughter, Smith, Throckmorton, Weir and Worthington.

Those who voted in the negative, are, messrs. Ballinger, Barbee, Bowman, Bowmar, Carneal, Carpenter, Davidson, Dawson, Ewing, Faulkner, Flournoy, Given, Lackey, Marshall, M'Afee, Owens, Pickett, Pope, Roper, Ward and White.

The bill was then read a third time as amended; and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 20, nays 14.

The yeas and nays being required thereon by messrs. Beauchamp and Anderson, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Barbee, Bowmar, Carneal, Davidson, Dawson, Ewing, Flournoy, J. L. Hickman, Lackey, Marshall, M'Afee, Owens, Pickett, Pope, Roper, Slaughter, Ward and White.

Those who voted in the negative, are, messrs. Beauchamp, Bowman, Carpenter, Crutcher, Faulkner, Ford, Given, Gorin, Jones, Perrin, Smith, Throckmorton, Weir and Worthington.

Resolved, That the said bill, as amended, do pass, and that Mr. M'Afee inform the house of representatives thereof and request their concurrence in the amendments.

And then the senate adjourned.

SATURDAY, DECEMBER 15, 1821.

The senate assembled.

The following nominations were taken up and read, to wit:
Gentlemen of the Senate,

I nominate for your advice and consent, the following gentlemen, to be commissioned during good behaviour, viz.

Frederick Weller, colonel of the 91st regiment, in the place of Samuel H. Curd, resigned.

William W. Blakey, lieutenant colonel of said regiment, in the place of Frederick Weller, if promoted.

Drury Woodson Poor, major of the same regiment, in the place of William W. Blakey, if promoted.

John Dyer, colonel of the 72d regiment, in the place of John G. Reynolds, resigned.

William M'Waters, lieutenant colonel of the same regiment, in the place of John Dyer, if promoted.

Asher Davis, major of the same regiment, in the place of Andrew Northington, resigned.

JOHN ADAIR.

December 10th, 1821.

Gentlemen of the Senate.

I nominate for your advice and consent, the following gentlemen, to be commissioned during good behaviour, to wit:

Thomas Buckner, colonel of the 105th regiment, in the place of Samuel Sayers, resigned.

Leonard Stephens, lieutenant colonel of the same regiment, in the place of Thomas Buckner, if promoted.

JOHN ADAIR.

December 10th, 1821.

Gentlemen of the Senate.

I nominate for your advice and consent, the following gentleman, to be commissioned during good behaviour, viz:

Edward B. Rule, brigade quartermaster of the 26th brigade.

JOHN ADAIR.

December 11th, 1821.

Resolved, That the senate advise and consent to said appointments, and that messrs. Ewing and Mountjoy inform the governor thereof.

Mr. Roper, from the committee for courts of justice, made the following report, to wit:

The committee for courts of justice have, according to order, had under consideration the petition of N. B. Coleman and Wm. M. Baylor, praying for the passage of a law to compel the county court of Harrison to make compensation for part of the public ground sold by them, and have come to the following resolution thereupon, to wit:

Resolved, That the said petition is reasonable.

Which being amended by striking out the words *is reasonable*, and inserting in lieu thereof *be rejected*, was concurred in.

A message from the house of representatives, by Mr. W. O. Butler :

Mr. Speaker—The house of representatives have passed a bill entitled “an act for the benefit of the widow and heirs of Martin Hawkins and Henry Clifton, deceased;” in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. White :

Mr. Speaker—The house of representatives concur in the amendments proposed by the senate, to a bill entitled “an act imposing a duty on sales at auction in the county of Jefferson, for the benefit of the Louisville Hospital.”

And then he withdrew.

A message from the house of representatives, by Mr. Wickliffe :

Mr. Speaker—The house of representatives concur in the amendments made by the senate, upon concurring in those made by that house, to a bill entitled “an act to amend the militia law.”

And then he withdrew.

Mr. Bowmar, from the select committee to whom was referred a bill from the house of representatives, entitled “an act for the divorce of sundry persons,” reported the same with amendments, which were concurred in and the bill read a third time.

The question being taken on the passage thereof as amended, it was resolved in the affirmative—Yeas 19, nays 14.

The yeas and nays being required thereon by messrs. Beauchamp and Carpenter, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Ballinger, Bowman, Bowmar, Davidson, Dawson, Ewing, Given, Gorin, R. Hickman, Jones, Marshall, Mountjoy, Owens, Smith, Throckmorton, Ward, White, Williams and Worthington.

Those who voted in the negative, are, messrs. Anderson, Barbee, Beauchamp, Carneal, Carpenter, Crutcher, Faulkner, Ford, J. L. Hickman, Pickett, Pope, Roper, Slaughter and Weir.

Resolved, That the said bill as amended pass, and that Mr. Jones inform the house of representatives thereof and request their concurrence in the amendments.

A message from the house of representatives, by Mr. Moore :

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled “an act to abolish imprisonment for debt and subject equitable interests to execution,” with amendments, in which they request the concurrence of the senate.

And then he withdrew.

The amendments were concurred in.

Ordered, That *Mr. Roper* inform the house of representatives thereof.

A message from the house of representatives, by *Mr. Cogswell* :

Mr. Speaker—The house of representatives have passed a bill entitled “an act to amend the charter of the Bank of the Commonwealth of Kentucky ;” in which they request the concurrence of the senate.

And then he withdrew.

The bill was read the first time. The rule being dispensed with, it was read a second time and committed to messrs. Marshall, Pope and Crutcher.

A message from the house of representatives, by *Mr. Bruce* :

Mr. Speaker—The house of representatives have passed a bill entitled “an act to declare Cabin creek a navigable stream ;” in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by *Mr. Sandford* :

Mr. Speaker—The house of representatives have passed a bill entitled “an act for the benefit of Mary Prewitt, administratrix of Anderson L. Prewitt, deceased ;” in which they request the concurrence of the senate.

And then he withdrew.

Mr. Bowman, from the select committee to whom was referred a bill from the house of representatives, entitled “an act for disposing of the lands east of Tennessee river, and south of Walker’s line, and north of latitude 36° 30’,” reported the same with amendments, which were disagreed to; and the bill was read a third time.

The question being taken on the passage thereof, it was resolved in the negative ; and so the said bill was rejected.

Ordered, That *Mr. Faulkner* inform the house of representatives thereof.

Bills from the house of representatives of the following titles, to wit: 1. An act concerning Jeffersontown, in Jef.

person county ; 2. an act for the benefit of Henry S. Langford, infant heir of Stephen Langford, deceased ; 3. an act for the benefit of the seminary in Harlan county ; 4. an act authorising the trustees of the Union academy to sell certain lands ; and 5. an act to amend an act concerning the house of public worship in the town of Frankfort ; were severally read the first time.

The rule being dispensed with, they were read a second time, and the four former a third time

Resolved, That the four former bills do pass, and that mr. Faulkner inform the house of representatives thereof.

A bill to amend the charter of the Bank of the Commonwealth of Kentucky, was read a second time and committed to messrs. Marshall, Pope and Crutcher.

An engrossed bill to extend the prison bounds, was read a third time.

Mr. moved to lay the bill on the table ; and the question being taken thereon, it was resolved in the affirmative—Yeas 20, nays 15.

The yeas and nays being required thereon by messrs. M'Afee and Beauchamp. were as follows, to wit :

Those who voted in the affirmative, are, messrs. Anderson, Barbee, Bowman, Carpenter, Crutcher, Davidson, Dawson, Faulkner, Flourney, Ford, J. L. Hickman, Jones, Lackey, Pickett, Pope, Ward, Weir, White, Williams and Worthington.

Those who voted in the negative, are, messrs. Ballinger, Beauchamp, Bowmar, Carneal, Ewing, Gorin, R. Hickman, Marshall, M'Afee, Mountjoy, Owens, Perrin, Roper, Slaughter and Throckmorton.

Mr. Bowman, from the select committee to whom was referred a bill to amend and explain an act entitled " an act giving further time to enter lands for the payment of taxes," reported the same with an amendment, which was laid on the table.

Mr. Beauchamp, from the select committee to whom was referred a bill for the benefit of debtors and creditors, reported the same with an amendment in lieu of the bill, which was laid on the table.

And then the senate adjourned.

MONDAY, DECEMBER 17, 1821.

The senate assembled.

Mr. Mountjoy, from the select committee raised for that purpose, reported a bill to amend an act entitled "an act for the better regulation of the town of Falmouth," approved February 5, 1817; which was read the first time.

The rule being dispensed with, it was read a second time, and having been engrossed, was read a third time.

Resolved, That the said bill pass, and that the title be "an act to amend an act entitled an act for the better regulation of the town of Falmouth, approved February 5, 1817."

Ordered, That mr. Bowmar carry said bill to the house of representatives and request their concurrence.

Mr. Carneal, from the select committee to whom was referred a bill from the house of representatives, entitled "an act to amend and repeal in part an act for establishing and laying off a town at the Iron Banks, approved December 27, 1820," reported the same with amendments, which were concurred in and the bill read a third time.

Resolved, That the said bill as amended pass, and that mr. Bowmar inform the house of representatives thereof and request their concurrence in the amendments.

A message from the house of representatives, by Mr. Howard:

Mr. Speaker—The house of representatives have passed a bill entitled "an act providing a mode for this state receiving the net profits at the Bank of the Commonwealth;" in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Pope:

Mr. Speaker—The house of representatives have passed a bill entitled "an act to regulate proceedings on contracts for specie;" and they have passed a bill from the senate, entitled "an act providing for the sale of the vacant lands west of the Tennessee river," with an amendment. In which bill and amendment they request the concurrence of the senate.

And then he withdrew.

The former bill was read the first time. The rule being dispensed with, it was read a second time, as follows, to wit:

An Act to regulate proceedings on contracts for Specie.

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That where any judgment shall be hereafter obtained, upon any contract made and entered into after the first day of June in the year 1822, by which the obligor or obligors in such contract shall, in express words, covenant or agree to pay the sum or sums therein mentioned, in specie, the court, in rendering the judgment, shall direct that the same, except the costs, be recovered in specie; and it shall be the duty of the clerk, to endorse on every execution issued on any such judgment, that the amount thereof is to be collected in specie.

§ 2. *Be it further enacted,* That the defendant or defendants in every such case provided for in the first section of this act, shall be entitled to replevy the debt, interest and costs for three months, and no more, on the terms and conditions, and according to the rules and regulations prescribed by law in other cases where a replevin of three months is allowed: *Provided, however,* that unless the plaintiff will endorse that the costs will be received in notes of the Bank of the Commonwealth, or Bank of Kentucky, the defendant or defendants shall be allowed a replevin of two years, as in other cases.

§ 3. *Be it further enacted,* That this act shall not apply to any note which may be given to, or discounted by any bank or corporation.

The question being taken on reading the bill a third time, it was resolved in the negative—Yeas 11, nays 20.

The yeas and nays being required thereon by messrs. Faulkner and Jones, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Crutcher, Davidson, Faulkner, Ford, J. L. Hickman, Jones, Lackey, Pope, Roper, Slaughter and Smith.

Those who voted in the negative, are, messrs. Ballinger, Barbee, Beauchamp, Bowman, Bowmar, Carneal, Carpenter, Dawson, Ewing, Flournoy, Gorin, Marshall, M'Affee, Mountjoy, Perrin, Pickett, Throckmorton, Ward, Weir and White.

And so the said bill was rejected.

Ordered, That Mr. Ewing inform the house of representatives thereof.

A bill from the house of representatives, entitled "an act allowing an additional number of constables to certain counties," with the amendments, was taken up and committed to messrs. Carpenter, Roper and Pope.

A message from the house of representatives, by Mr. Allen :

Mr. Speaker—The house of representatives have passed a bill entitled “an act for a change of venue in the case of Elisha English;” in which they request the concurrence of the senate.

And then he withdrew.

Bills from the house of representatives, of the following titles, to wit : An act to amend an act concerning a house of public worship in the town of Frankfort, and an act for the benefit of the widow and heirs of John Willitt, deceased, were read a third time.

Resolved, That the said bills do pass, and that Mr. Crutcher inform the house of representatives thereof.

Mr. Barbee, from the joint committee of enrolments, reported that they had examined sundry enrolled bills and an enrolled resolution, of the following titles, to wit : An act to abolish imprisonment for debt, and subject equitable interests to execution ; an act to amend the militia law ; an act giving further time to return plats and certificates of survey ; an act imposing a duty on sales at auction in the county of Jefferson, for the benefit of the Louisville Hospital ; an act for the benefit of the heirs of William Allen, deceased ; and resolutions concerning the occupying claimant laws, and the decision of the supreme court of the United States thereon ; and had found the same truly enrolled.

A message from the house of representatives, by Mr. Crawford :

Mr. Speaker—The Speaker of the house of representatives having signed sundry enrolled bills and an enrolled resolution, I am instructed to lay the same before the senate, for the signature of their Speaker.

And then he withdrew.

Whereupon the Speaker signed said bills and resolution, being the same reported to day by Mr. Barbee, and they were delivered to the joint committee of enrolments, to be laid before the governor for his approbation and signature.

And Mr. Barbee, from said committee, reported that they had performed that duty.

Ordered, That the public printers forthwith print 1000 copies of the ‘act to abolish imprisonment for debt, and subject equitable interests to execution,’ and 1500 copies of the ‘act to amend the militia law,’ for the use of the members of the legislature.

A bill to amend and explain an act entitled 'an act giving further time to enter lands for the payment of taxes,' was taken up and committed to messrs. Flournoy, Bowman and White.

An engrossed bill to amend and repeal in part an act to extend and continue for a longer period the charter of the Bank of Kentucky, was read a third time; and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 22, nays 9.

The yeas and nays being required thereon by messrs. Beauchamp and Carpenter, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Barbee, Beauchamp, Bowmar, Dawson, Ewing, Flournoy, Gorin, Jones, Lackey, Marshall, M'Afee, Mountjoy, Perrin, Pickett, Slaughter, Throckmorton, Ward, Weir, White and Worthington.

Those who voted in the negative, are, messrs. Carpenter, Crutcher, Davidson, Faulkner, Ford, J. L. Hickman, R. Hickman, Roper and Williams.

Resolved, That the said bill do pass, and that the title be 'an act to amend and repeal in part an act entitled an act to amend and extend the charter of the Bank of Kentucky.'

Ordered, That mr. Bowmar carry said bill to the house of representatives and request their concurrence.

Bills from the house of representatives of the following titles, to wit: 1. An act for the benefit of Champ Mullens, of Rockcastle county; 2. an act for the relief of Andrew Craig; 3. an act for the benefit of the heirs of William Shannon and James Bristoe; 4. an act for the benefit of the clerk of Nicholas circuit court, and for other purposes; 5. an act for the better regulation of the towns of Carlisle and Springfield; 6. an act to amend an act appointing persons to view a way for a road from Danville to the Tennessee line; 7. an act for a change of venue in the case of Elisha English; 8. an act authorising the sale of the real estate and slaves of certain persons; 9. an act for the benefit of the heirs of Archibald Marshall, deceased; 10. an act for the benefit of the widow and heirs of Martin Hawkins and Henry Clifton, deceased; 11. an act to declare Cabin creek a navigable stream; 12. an act for the benefit of Mary Prewitt, administratrix of Anderson L. Prewitt, deceased; 13. an act for the benefit of Ambrose Camp; 14. an act to regulate the time of holding circuit courts, county courts and the general court in this commonwealth; 15. an act to authorise the establishment of a Branch Bank of the Com.

monwealth at Bardstown ; 16. an act for the benefit of the sheriff of Warren county ; 17. an act to amend an act for surveying the military claims west of the Tennessee river, approved December 26. 1820 ; and 18. an act providing a mode for this state receiving the net profits at the Commonwealth's Bank ; were severally read the first time.

The rule being dispensed with, they were read a second time, the 14th and 17th amended at the clerk's table, and the fourteen former read a third time.

Resolved, That the fourteen first bills pass, the 14th as amended, and that Mr. Ewing inform the house of representatives thereof and request their concurrence in the amendments.

The 15th and 17th were ordered to be read a third time ; the 16th was committed to messrs. Ward, Dawson and Roper, and the 18th to messrs. Jones, Marshall and Roper.

The senate received from the governor, by Mr. Anderson, a message in writing, covering a communication from one of the managers of the asylum established in the city of Cincinnati, for the education of the deaf and dumb.

They also received information by him, that the governor did on the 14th inst. approve and sign enrolled bills which originated in the senate, of the following titles, to wit : An act for the benefit of the sheriffs of Wayne and Campbell counties ; an act forming the county of Lawrence, out of parts of the counties of Greenup and Floyd ; an act for the benefit of Samuel Lewis and others ; an act for the benefit of the widow and heirs of John R. Chitwood ; an act to amend the act altering the mode of taking in the lists of taxable property ; an act to authorise the sale of part of the real estate of Alexander Dunbar and Henry E. Wax, deceased. And that he did on this day approve and sign enrolled bills which originated in the senate, of the following titles, to wit : An act to amend the militia law, and an act to abolish imprisonment for debt and subject equitable interests to execution.

Ordered, That Mr. Ewing inform the house of representatives thereof.

A bill for the benefit of debtors and creditors, was taken up.

Mr. Faulkner moved to lay the bill on the table until the first day of June next ; and the question being taken thereon, it was resolved in the negative—Yeas 15, nays 18.

The yeas and nays being required thereon by messrs. Beauchamp and Perrin, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Bowman, Carpenter, Davidson, Dawson, Faulkner, Flournoy, Ford, Jones, Roper, Throckmorton, Weir, Williams and Worthington.

Those who voted in the negative, are, messrs. Barbee, Beauchamp, Bowmar, Carneal, Ewing, Gorin, J. L. Hickman, R. Hickman, Lackey, Marshall, M'Afee, Mountjoy, Perrin, Pickett, Pope, Slaughter, Ward and White.

The bill, with the amendments, was then committed to messrs. Marshall, White, M'Afee, Carneal and Pope.

Ordered, That the committee of the whole house on the state of the commonwealth be discharged from the further consideration of a bill to regulate proceedings under executions, orders of sale and decrees in chancery; and the same was committed to messrs. Marshall, White, M'Afee, Carneal, Pope and Bowmar.

A message from the house of representatives, by Mr. Wickliffe:

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled "an act to regulate sales of real estate by the collector of the town tax of Bardstown."

And then he withdrew.

A message from the house of representatives, by Mr. Cowan:

Mr. Speaker—The house of representatives concur in the amendments proposed by the senate, to bills of the following titles: An act for the benefit of Culvin Sanders and Elizabeth Davenport; an act to amend and repeal in part an act for establishing and laying off a town at the Iron Banks, approved December 27, 1821. They concur in the first and second amendments made to a bill entitled "an act for the divorce of sundry persons," and disagree to the third.

And then he withdrew.

The third amendment was taken up and read.

Resolved, That the senate recede from said amendment, and that Mr. Ewing inform the house of representatives thereof.

A message from the house of representatives, by Mr. Cowan:

Mr. Speaker—The house of representatives concur in the amendments made by the senate, to a bill entitled "an act to establish a literary fund, and for other purposes," with amendments; in which they request the concurrence of the senate.

And then he withdrew.

The amendments were taken up and concurred in.

Ordered, That Mr. M'Affee inform the house of representatives thereof.

A bill to amend an act entitled "an act concerning attorneys of the commonwealth," and a bill to repeal the law requiring circuit judges to reside within their districts, were read a second time.

The former bill having been engrossed, and the rule dispensed with, it was read a third time.

Resolved, That the said bill pass, and that the title be "an act concerning attorneys for the commonwealth."

Ordered, That Mr. Davidson carry said bill to the house of representatives and request their concurrence.

And the latter bill was laid on the table until the first day of June next.

John Cowan appeared and produced a certificate of his having been duly elected senator from the county of Pulaski, to fill the vacancy occasioned by the death of Thomas Dollerhide, and of his having taken the several oaths of office; and took his seat.

Engrossed bills, to wit: 1. A bill for the benefit of Marcus Thomas; 2. a bill to amend the law concerning executions; 3. a bill for the benefit of William Starling, jun. late keeper of the penitentiary; and 4. a bill to amend an act providing a summary mode of recovering debts; were severally read, the third and fourth as follows, to wit:

An Act for the benefit of William Starling, jun. late Keeper of the Penitentiary.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That William Starling, jun. is hereby authorized and directed to receive five per centum, in the articles manufactured by him, agreeably to the inventory made out by him and returned to the auditor of public accounts: *Provided, however*, that the said Starling shall take an equal proportion of said articles; and the said Starling shall pass his receipt to the agent of the penitentiary therefor, which shall be filed with the auditor of public accounts, and shall stand as a credit in favor of the agent of said institution.

An Act to amend an act providing a summary mode of recovering debts.

Whereas the act for the recovery of debts in the summary mode by petition and summons, operates manifest injustice and partiality, to the prejudice of other litigants who are

compelled to pursue their remedies in court according to the provisions of the common law : Therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter, upon the filing a petition with the clerk, it shall be his duty to issue a summons returnable to the first day of the term after the filing such petition, and shall docket the same in the order of time in which such suit by petition shall be brought, with other common law causes ; and the same proceedings shall be had thereon as is now provided for by law in other cases ; but nothing in this act shall operate on suits by petition and summons instituted previous to the passage of this act.

Resolved. That the first and second bills pass, and that the titles be, 'an act for the benefit of Marcus Thomas,' and 'an act to amend the law concerning executions.'

Ordered, That mr. Williams carry said bills to the house of representatives and request their concurrence.

The question being taken on the passage of the third bill, it was resolved in the negative—Yeas 14, nays 20.

The yeas and nays being required thereon by messrs. Crutcher and Beauchamp, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Barbee, Bowmar, Carneal, Cowan, Davidson, Ewing, Lackey, Marshall, M'Afee, Perrin, Pickett, Pope, Roper and White.

Those who voted in the negative, are, messrs. Anderson, Ballinger, Beauchamp, Bowman, Carpenter, Crutcher, Dawson, Faulkner, Flournoy, Ford, Gorin, J. L. Hickman, R. Hickman, Jones, Mountjoy, Smith, Throckmorton, Weir, Williams and Worthington.

The question being taken on the passage of the fourth bill, it was resolved in the negative—Yeas 16, nays 17.

The yeas and nays being required thereon by messrs. Faulkner and Crutcher, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Ballinger, Beauchamp, Bowmar, Carneal, Ewing, Gorin, R. Hickman, Marshall, M'Afee, Mountjoy, Perrin, Pickett, Pope, Smith, Throckmorton and White.

Those who voted in the negative, are, messrs. Anderson, Barbee, Bowman, Carpenter, Crutcher, Cowan, Davidson, Dawson, Faulkner, Flournoy, Ford, J. L. Hickman, Jones, Roper, Weir, Williams and Worthington.

And so the said bills were rejected.

A message from the house of representatives, by mr. Wickliffe :

Mr. Speaker—The house of representatives concur in the amendments made by the senate to bills of the following titles, to wit: An act for the division of Floyd county; an act authorising the county courts of Bracken, Mason and Fayette to purchase and erect buildings for the accommodation of their poor; and an act to ascertain and mark the division line between the counties of Grant, Boone and Gallatin.

And then he withdrew.

A message from the house of representatives, by *Mr. Warfield*:

Mr. Speaker—The house of representatives concur in the resolution fixing a day for the appointment of commissioners, agreeably to resolutions concerning the occupying claimant laws, with an amendment, in which they request the concurrence of the senate.

And then he withdrew.

The amendment was taken up and concurred in.

Ordered, That *Mr. Ewing* inform the house of representatives thereof.

A bill for the benefit of part of the legatees of Tunstall Quarles, deceased, was taken up; and the question being taken on engrossing and reading the bill a third time, it was resolved in the negative; and so the said bill was rejected.

And then the senate adjourned.

TUESDAY, DECEMBER 18, 1821.

The senate assembled.

A bill from the house of representatives, entitled "an act to amend an act for surveying the military claims west of the Tennessee river, approved December 26, 1820," was taken up. The vote adopting an amendment thereto was re-considered, and the amendment was withdrawn. The bill was read a third time.

The question being taken on the passage thereof, it was resolved in the affirmative—Yeas 18, nays 11.

The yeas and nays being required thereon by messrs. *R. Hickman* and *Ewing*, were as follows, to wit:

Those who voted in the affirmative, are, messrs. *Anderson*, *Ballinger*, *Barbee*, *Beauchamp*, *Bowmar*, *Carpenter*, *Cowan*, *Dawson*, *Ewing*, *Given*, *Gorin*, *M'Afee*, *Perrin*, *Pope*, *Roper*, *Smith*, *Ward* and *White*.

Those who voted in the negative, are, messrs. Bowman, Crutcher, Faulkner, Ford, R. Hickman, Mountjoy, Pickett, Slaughter, Throckmorton, Williams and Worthington.

Resolved, That the said bill pass, and that Mr. Ewing inform the house of representatives thereof.

Bills from the house of representatives of the following titles were reported from the select committees to whom they were referred, to wit:

By Mr. Jones—An act providing a mode for this state receiving the net profits at the Commonwealth's Bank.

And by Mr. Ward—An act for the relief of the sheriff of Warren county.

Severally with amendments, which were concurred in and the bills read a third time.

Resolved, That the said bills as amended do pass, and that the title of the latter be amended to read, 'an act for the benefit of the sheriffs of Warren and Greenup counties.'

Ordered, That Mr. Dawson inform the house of representatives thereof, and request their concurrence in the amendments.

The vote on the passage of a bill from the house of representatives, entitled 'an act to regulate the times of holding circuit courts, county courts and the general court in this commonwealth,' was re-considered, and the first amendment withdrawn; and the bill being further amended, was laid on the table.

A message from the house of representatives, by Mr. Pope:

Mr. Speaker—The house of representatives are ready to proceed, by a joint vote, to the election of two commissioners, agreeably to resolutions concerning the occupying claimant laws; and Henry Clay, John Rowan and George M. Bibb stand in nomination before that house.

And then he withdrew

Ordered, That Mr. Faulkner inform the house of representatives that the senate are now ready to proceed in said election; and that the same persons stand in nomination before the senate, as reported from that house.

The senate then proceeded in said election, and the vote stood thus:

For Mr. Clay—Messrs. Anderson, Ballinger, Barbee, Beauchamp, Bowman, Bowmar, Carneal, Carpenter, Crutcher, Cowan, Davidson, Dawson, Ewing, Faulkner, Flournoy, Ford, Given, Gorin, J. L. Hickman, R. Hickman, Jones, Lackey, M'Afee, Mountjoy, Perrin, Pickett,

Pope, Roper, Slaughter, Smith, Throckmorton, Ward, Weir, White, Williams and Worthington—36.

For Mr. Bibb—Messrs. Ballinger, Bowmar, Carneal, Cowan, Dawson, Ewing, Ford, Gorin, J. L. Hickman, R. Hickman, Lackey, Marshall, Mountjoy, Perrin, Pickett, Roper, Slaughter, Smith, Throckmorton, Ward, White and Williams—22.

For Mr. Rowan—Mr. Anderson, Barbee, Beauchamp, Bowman, Carpenter, Crutcher, Davidson, Faulkner, Flournoy, Given, Jones, Marshall, M'Affee, Pope, Weir and Worthington—16.

Messrs. Carneal and Slaughter were appointed a committee to meet a committee from the house of representatives, compare the vote and report the result.

The committee retired, and after some time reported that the joint vote stood thus :

For Mr. Clay,	119
Bibb,	73
Rowan,	68

Whereupon messrs. Clay and Bibb were declared duly elected.

Mr. Marshall presented the petition of Richard Taylor, sergeant of the court of appeals, praying further time to pay over the amount of three executions in favor of the state, collected by a deputy of his : which was read and referred to messrs. Marshall, Ewing and Ward, with leave to report by bill or otherwise.

And after some time, mr. Marshall reported a bill, which was read the first time.

The rule being dispensed with, it was read a second and third time, (having been engrossed.)

Resolved, That the said bill pass, and that the title be 'an act for the benefit of the sergeant of the court of appeals.'

Ordered, That mr. Marshall carry said bill to the house of representatives and request their concurrence.

A message from the house of representatives, by Mr. Cowan :

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled 'an act for the benefit of Peter Watts and John Curd's heirs.' They concur in the amendments made by the senate to bills of the following titles, to wit : An act for the benefit of the sheriff of Warren county, and an act providing the mode for this state receiving the net profits at the Commonwealth's Bank.

And then he withdrew.

An engrossed bill to extend the prison bounds, was taken up.

Resolved, That the said bill pass, and that the title be 'an act to extend the prison bounds.'

Ordered, That Mr. Ewing carry said bill to the house of representatives and request their concurrence.

A message from the house of representatives, by Mr. Yancey :

Mr. Speaker—The house of representatives disagree to a bill from the senate, entitled 'an act to add a fourth judge to the court of appeals, and for other purposes;' and they have passed a bill entitled 'an act for the benefit of Joseph Crawford and Robert Claghorn;' in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Pearcy :

Mr. Speaker—The house of representatives have passed bills of the following titles, to wit: An act for the relief of Samuel Howard and Nancy Fulcher, and an act for the relief of Elizabeth Carstarphen and Abigail Birdwell; in which they request the concurrence of the senate.

And then he withdrew.

Mr. M'Allee, from the select committee to whom was referred a bill entitled 'an act to amend the act entitled an act to regulate endorsements on executions,' together with the amendments proposed thereto by the house of representatives, reported the same with an amendment.

The amendment of the house of representatives was read as follows, to wit :

§ 2. *Be it further enacted*, That no execution shall hereafter issue on any replevin or forthcoming bond, bond taken on the sale of property sold under execution, bond taken under any decree in chancery, bond taken under and in virtue of the occupying claimant laws, or other bond or recognizance having the force of a judgment, until twenty days after the same may become due; and if the plaintiff or plaintiffs shall not, within ten days after such bond or recognizance may become due, file with the clerk or justice of the peace having the custody of the said bond or recognizance, a statement in writing, expressing, in substance, that notes on the Bank of Kentucky or its branches, or notes on the Bank of the Commonwealth or its branches, may be received in discharge of such bond or recognizance, or any execution to be issued thereon, then and in that case

the defendant or defendants in any such bond or recognizance shall have the right of replevin for two years, and enter into a replevin bond or recognizance, as heretofore, before the clerk or justice of the peace, with good security, to be approved of by such clerk or justice, at any time before the issuing of execution; or afterwards may replevy such debt for two years, with the officer having the execution, unless there shall be an endorsement made on such execution by the plaintiff, his agent or attorney, in substance, that notes on the Bank of Kentucky or branches, or notes on the Bank of the Commonwealth or branches, may be received in discharge of said execution. Such replevin bond or recognizance so taken by the clerk, justice or other officer, shall have the force of a judgment, and execution shall issue thereon as in other cases, upon which the clerk or justice shall endorse, "No security of any kind to be taken."

Mr. Bowmar moved the following as a substitute for said amendment, to wit :

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That real and personal estate taken under execution, or which may be subjected to sale by execution, order of sale or decree in chancery, shall be first appraised, before a sale thereof shall be made, as hereinafter directed.

§ 2. When any sheriff, constable or other officer shall levy an execution upon any personal or real estate, he shall at the time deliver to the defendant or defendants therein, or to his or their agent or attorney, an inventory of said property, signed with his name and style of office, and shall note thereon the time and place when and where the same is by him intended to be sold; and it shall be lawful for the defendant or owner, his agent or attorney, to apply to a justice of the peace for the appointment of appraisers, and the justice shall appoint four honest, judicious and disinterested housekeepers to appraise the said property, who, or any three of whom, after being sworn to act impartially, shall, on or before the day of sale, appraise the said property contained in the said inventory, and certify to the sheriff or other officer the value or appraisement thereof, taking each article or set of articles as it or they stand or are specified in said inventory; and the sheriff or other officer shall, on the day of sale, expose the said goods, chattels or real estate to public sale, or so much thereof as by the said appraisement shall be equal to the amount of said execution or executions, offering first the goods and chattels, if any, ex-

clusive of slaves ; next, slaves, if any ; and lastly, the land or real estate, if any, or so much thereof as shall be sufficient ; but the defendant or owner of said property shall have a right to direct that his slaves, if any, or land, if any, shall first be exposed to sale ; and the sheriff or other officer shall sell to the highest bidder or bidders, the said appraised property : *Provided*, that as much, or more, is bid for it as the value put thereon in the said appraisement ; but if less than the said appraised value only is bid, such articles, or parts thereof, for which less only is bid, shall not be sold : *And provided*, that no more shall be exposed to sale than by said appraisement will cover the amount of the execution or executions, except that in selling the last article it may overreach said amount, in which case the surplus shall be paid to the defendant whose property shall have been sold ; but the owner or owners of said property may, by his or their consent in writing, have a further exposure of any part of said appraised property, if that, or any part which has been exposed, shall not be sold as aforesaid ; and the said owner or owners may permit, by his or their consent, the said property, or any part, to be sold for less than three-fourths the said appraised value.

§ 3. The officer levying an execution or executions, whether the same is or is not endorsed, that no security of any kind is to be taken, or whether said execution has been issued upon a replevin bond or not, shall allow the personal or moveable property taken in execution to remain in the possession and care of the defendant or defendants, if he or they, or any one or more of them, or any person for him or them, shall give such officer a bond, made payable to the plaintiff or plaintiffs, with good security, conditioned for the delivery of said property at the time and place appointed for the sale thereof ; and said officer shall annex a list or inventory of said property to said bond, with an appraisement which he shall put upon each species or article of said property, and if any of it shall not be delivered or forthcoming, according to the condition of said bond, the appraised value put thereon by said officer shall be *prima facie* evidence of the value of so much of said property as shall not be delivered or forthcoming as aforesaid ; and the plaintiff or plaintiffs in said execution, or his or their agent or attorney, shall, by motion to the court or justice of the peace from whence such execution issued, or before some other justice of the peace, recover a judgment against the obligors of said bond for the value of the articles not delivered or forthcoming.

ing as aforesaid; and the court or justice of the peace, as the case may be, shall give judgment for the value of so much of the said property which shall not have been delivered or forthcoming according to the condition of said bond, and costs: *Provided* the obligors thereof have ten days' previous notice of said motion; and upon the trial, it shall be competent for said obligors to contest the value of said property, as put thereon by said officer. and the fact of its non delivery or not being forthcoming, or may allege its loss or destruction. A justice of the peace shall have cognizance of the whole case, when the execution under which said bond was executed shall have been issued by a justice, and a court of competent jurisdiction may order any issue or issues of fact, if necessary, to be tried by a jury, and give judgment accordingly; and upon such judgment of the court or justice, the plaintiff or plaintiffs may sue out execution, and property taken under such execution shall be sold for ready money, without valuation, for whatever it will bring, and the amount, except costs, shall be credited upon the former judgment or execution; but this proceeding shall not be had, after the judgment upon which the former execution was issued shall be satisfied, nor shall the obligors of said delivery bond be liable for the non delivery of any property contained therein which may have been lost or destroyed by unavoidable accident or casualty, before the day of sale: *Provided*, that the owner, or any other for him, give notice to the said officer, on or before said day, of such loss or destruction, supported by affidavit, which notice the officer shall return with said bond; and the plaintiff or plaintiffs may, at his or their option, release said property not delivered, from said execution, or may proceed on said bond as above directed; and the officer to whom an execution shall be directed upon a judgment resulting from such motion, shall secure the property in his own hands, taken under said execution, and shall not take security for its delivery; and the clerk or justice issuing said execution, shall endorse thereon, in substance, that it was recovered upon a delivery bond, and that no further security is to be taken.

§ 4. So much of the property taken in execution and exposed to sale as before directed, which shall not sell for three fourths of its appraised value as before directed, shall be returned by the officer exposing the same to sale, to the defendant owner thereof, unless it shall have been sold at a less price by consent of said owner or owners; and the said

property and real estate not sold as aforesaid, shall be released from the said execution or executions, but shall be again liable to any future execution upon the same judgment or decree, or to the execution of any other person or persons, and shall be proceeded on, in either case, in all respects as before directed by this act.

§ 5. Property, real or personal, or bank stock, which shall be liable to be sold by any officer, or by any commissioner or commissioners under any order of sale or decree in chancery, shall be appraised and proceeded on in all respects as required by this act in case of proceedings by execution; and property mortgaged or conveyed in trust, shall not be sold by any officer, or commissioner or commissioners, for less than three fourths of its said appraised value, unless the owner or owners, mortgagor or mortgagors, or person or persons creating the trust, shall consent that it may be sold for less.

§ 6. *Be it further enacted*, That if the plaintiff or plaintiffs in any suit or execution, order of sale or decree in chancery, shall endorse or cause to be endorsed thereon, before said execution shall be levied upon the property of the defendant or defendants therein, that notes of the Bank of the Commonwealth of Kentucky and of its branches, and notes of the Bank of Kentucky and of its branches, will be received in discharge of the said execution, order of sale or decree in chancery, where such endorsement shall in substance be made on an execution, order of sale or decree in chancery, the sheriff, other officer or commissioners shall proceed to sell the property or estate upon which said execution shall be levied, or which may be subject to said order of sale or decree, under existing laws, for what said property or estate will bring, without having the appraisal or valuation provided for by this act; and the foregoing sections of this act shall not apply to the proceedings to be had upon an execution, order of sale or decree in chancery, endorsed as above provided for in this section of this act.

§ 7. *Be it further enacted*, That if any of the appraisers appointed as before directed by this act, shall fail or refuse to serve, or shall be objectionable upon good cause shewn to a justice of the peace, said justice shall appoint as many others as shall make up the deficiency; and said appraisers shall be entitled to one dollar for each day's service, to be paid by the person or persons applying for said appraisal.

The question being taken thereon, it was resolved in the affirmative—Yeas 24, nays 8.

The yeas and nays being required thereon by messrs. Dawson and Throckmorton, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Barbee, Beauchamp, Bowman, Bowmar, Carneal, Carpenter, Ewing, Flournoy, Gorin, J. L. Hickman, R. Hickman, Marshall, M'Afee, Mountjoy, Perrin, Pickett, Smith, Ward, Weir, White, Williams and Worthington.

Those who voted in the negative, are, messrs. Davidson, Dawson, Faulkner, Ford, Jones, Pope, Roper and Throckmorton.

The bill and amendment was then committed to messrs. Flournoy, White, Marshall, Roper, M'Afee and Carpenter; and after a short time, mr. Carpenter reported the bill with further amendments, the second of which was read as follows, to wit:

"It shall be the duty of the several county courts in this commonwealth to appoint ten fit and discreet house keepers in each county, as commissioners, who shall be sworn to act impartially in the valuation, for specie, of property, under the provisions of this act, any two of whom shall be sufficient to make the valuation of the property, and in case of their disagreement, may choose a disinterested umpire."

Mr. Marshall moved to strike out "three fourths;" and the question being taken thereon, it was resolved in the affirmative—Yeas 17, nays 15.

The yeas and nays being required thereon by messrs. Jones and Throckmorton, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Beauchamp, Bowman, Bowmar, Carneal, Ewing, Gorin, Marshall, M'Afee, Mountjoy, Perrin, Pope, Smith, Throckmorton, Ward, Weir, White and Worthington.

Those who voted in the negative, are, messrs. Anderson, Ballinger, Barbee, Carpenter, Crutcher, Davidson, Faulkner, Flournoy, Ford, J. L. Hickman, Jones, Lackey, Roper, Slaughter and Williams.

Mr. Carneal then moved to amend the amendment, by striking out "specie;" and the question being taken thereon, it was resolved in the negative—Yeas 16, nays 17.

The yeas and nays being required thereon by messrs. Faulkner and Ford, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Ballinger, Beauchamp, Bowmar, Carneal, Ewing, Gorin, Mar-

shall, M'Afee, Mountjoy, Perrin, Smith, Throckmorton, Ward, Weir, White and Worthington.

Those who voted in the negative, are, messrs. Anderson, Barbee, Bowman, Carpenter, Crutcher, Davidson, Faulkner, Flournoy, Ford, Given, J. L. Hickman, Jones, Lackey, Pickett, Pope, Roper and Slaughter.

Mr. M'Afee then moved a substitute for the said amendment, containing the same words, except the words 'in money,' instead of the words 'for specie;' and the question being taken thereon, it was resolved in the affirmative—Yeas 16, nays 16—the speaker voting in the affirmative.

The yeas and nays being required thereon by messrs. M'Afee and Faulkner, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Ballinger, Beauchamp, Bowmar, Carneal, Ewing, Gorin, Marshall, M'Afee, Mountjoy, Perrin, Smith, Throckmorton, Ward, Weir, White and Worthington.

Those who voted in the negative, are, messrs. Anderson, Barbee, Bowman, Carpenter, Crutcher, Davidson, Faulkner, Flournoy, Ford, J. L. Hickman, Jones, Lackey, Pope, Roper, Slaughter and Williams.

Mr. Bowman then moved to lay the bill and amendments on the table until the first day of June next; and it was resolved in the negative—Yeas 15, nays 17.

The yeas and nays being required thereon by messrs. Flournoy and Bowman, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Barbee, Bowman, Carpenter, Crutcher, Davidson, Faulkner, Flournoy, Ford, J. L. Hickman, Jones, Lackey, Pope, Roper and Slaughter.

Those who voted in the negative, are, messrs. Ballinger, Beauchamp, Bowmar, Carneal, Ewing, Gorin, Marshall, M'Afee, Mountjoy, Perrin, Smith, Throckmorton, Ward, Weir, White, Williams and Worthington.

The vote on the amendment to the amendment, striking out 'three-fourths,' was then re-considered, and it was moved to amend it by inserting those words; and the question being taken thereon, it was resolved in the affirmative—Yeas 30, nays 2.

The yeas and nays being required thereon by messrs. Beauchamp and Slaughter, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Barbee, Bowman, Bowmar, Carneal, Carpenter, Crutcher, Davidson, Ewing, Faulkner, Flournoy, Ford, Gorin, J. L. Hickman, Jones, Lackey, Marshall,

M'Afee, Mountjoy, Perrin, Pope, Roper, Slaughter, Smith, Throckmorton, Ward, Weir, White and Williams.

Those who voted in the negative, are, messrs. Beauchamp and Worthington.

The said amendment was then concurred in.

Resolved, That the senate concur in the amendment made by the house of representatives, with the said amendment.

Ordered, That mr. Bowmar inform the house of representatives thereof, and request their concurrence in the amendment.

A message from the house of representatives, by Mr. Pope :

Mr. Speaker—The house of representatives disagree to the first amendment made by the senate to resolutions concerning the Bank of Kentucky and the Bank of the Commonwealth of Kentucky, and they concur in the second amendment.

And then he withdrew.

Mr. Williams, from the joint committee of enrolments, reported that they had examined an enrolled bill entitled 'an act to establish a literary fund, and for other purposes,' and had found the same truly enrolled.

A message from the house of representatives, by Mr. Yantis :

Mr. Speaker—The Speaker of the house of representatives having signed an enrolled bill. I am instructed to lay the same before the senate, for the signature of their Speaker.

And then he withdrew.

Whereupon the Speaker signed said bill, being the same reported to day by Mr. Williams, and it was delivered to the joint committee of enrolments, to be laid before the governor for his approbation and signature.

And Mr. Williams reported that they had performed that duty.

Mr. Marshall, from the select committee to whom was referred a bill from the house of representatives, entitled 'an act to amend the charter of the Bank of the Commonwealth of Kentucky,' reported the same with amendments.

The first amendment, which proposes to strike out the first section of the bill, was taken up and the section read as follows, to wit :

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall and may be lawful for the directors of the principal bank, or any branch thereof, to make an allowance to such directors of their respective boards as

may reside out of the county in which the bank may be located, and to direct the payment thereof out of the funds of the bank: *Provided*, that the directory shall not make an allowance to any such director, exceeding two dollars per day for every day such director may necessarily be engaged attending on the stated meetings of the board, going to and returning from said bank.

The section was amended by striking out the words 'two dollars.' The question was then taken on striking out the section, and it was resolved in the affirmative—Yeas 25, nays 9.

The yeas and nays being required thereon by messrs. White and Marshall, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Beauchamp, Bowmar, Carneal, Carpenter, Crutcher, Dawson, Ewing, Faulkner, Flournoy, Given, Gorin, J. L. Hickman, R. Hickman, Jones, Lackey, Marshall, M'Affee, Mountjoy, Pickett, Smith, Ward, Weir, Williams and Worthington.

Those who voted in the negative, are, messrs. Ballinger, Bowman, Davidson, Ford, Perrin, Pope, Slaughter, Throckmorton and White.

The bill and amendments were then laid on the table until the first day of June next.

The senate received from the governor, by the secretary of state, three messages in writing, containing nominations.

A message from the house of representatives, by Mr. Cowan:

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled "an act to extend the prison bounds."

And then he withdrew.

A message from the house of representatives, by Mr. Howard:

Mr. Speaker—The house of representatives have passed a bill entitled "an act for the appropriation of money;" in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Warfield:

Mr. Speaker—The house of representatives have adopted resolutions for printing the Laws and Journals; in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by Mr. Love :

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled “an act forming the counties of Hickman, Graves, Calloway and M’Cracken, on the south-west of the Tennessee river.”

And then he withdrew.

And then the senate adjourned.

WEDNESDAY, DECEMBER 19, 1821.

The senate assembled.

Mr. Carpenter, from the select committee to whom was referred a bill from the house of representatives, entitled ‘an act to authorise the appointment of an additional number of constables in certain counties,’ reported the same with amendments, which were laid on the table; and the bill was further amended at the clerk’s table, and read a third time.

Resolved, That the said bill as amended do pass, and that the title be amended to read, ‘an act to amend the law concerning constables.’

Ordered, That Mr. Ewing inform the house of representatives thereof, and request their concurrence in the amendments.

The amendment proposed by the house of representatives to a bill providing for the sale of the vacant lands west of the Tennessee river, was taken up and read as follows, to wit :

Add to the bill—

And whereas many persons have heretofore settled upon the lands west of the Tennessee river and made improvements under a hope, that some liberal provision would be made for them by their government :

Be it further enacted, That all those who are actual settlers upon any of the sections by this act directed to be sold, shall be entitled to a reasonable compensation for the improvements they have made thereon, or to hold and enjoy the same for the term of five years from the passage of this act, free from any charge for rent, at the election of the purchasers.

Be it further enacted, That if any purchaser under this act, shall elect to pay the settler for his improvements, he may, upon giving to such settler ten days’ previous notice,

apply to the circuit court of the county in which the land may be situate, to appoint commissioners to value said improvements, and upon such application it shall be the duty of said court to appoint three commissioners to value the same, who, or a majority of them, shall value the same and make report to said court; upon which, such court shall render judgment against the purchaser for the value assessed, subject to all such exceptions and provisions as are usual in like cases.

Be it further enacted, That the settler shall have a lien on the land to secure payment of the value of his improvements.

Mr. Bowmar moved the following as a substitute for said amendment, to wit:

Strike out all the balance of the amendment, after the word sold, and insert—

The value of the rents of the land improved by them, shall be paid them by the purchasers thereof, respectively, counting said rents upon the improvements made before the passage of this act, and up to the end of the year 1824, unless the said purchaser thereof shall choose to let said settler remain on said land until the period aforesaid; in which case said purchaser shall have a right to demand of said settler a bond, that no waste shall be committed on the land of said purchaser, including said settler's improvement, during the occupancy of said settler, or any other under him; and if said bond shall not be given within one week after demanded, the said purchaser may turn said settler off said land; and the bond to be given under the provisions of this section, and the penalty, shall be judged of and decided by a justice of the peace of the county where the land shall lie, unless the parties thereto can otherwise agree.

Be it further enacted, That if the said purchaser shall elect to pay to said settler the value of the rents for the improvements made on the said land, that he shall have a right to pay the same in the bills of the Bank of the Commonwealth of Kentucky; and unless the parties can otherwise agree, it shall be lawful for the said purchaser to give notice in writing to said settler, of the time and place that he will apply to a justice of the peace in said county for the appointment of commissioners to appraise the value, in current money, of said rents; and upon the production and proof of said notice, before said justice, he shall appoint five commissioners, who, or any three of them, shall, after being sworn to act impartially, view said improvements of said settler, and shall

estimate and determine the value of the rents of said land and improvements, from the time that such estimate is made to the end of the year 1824, and shall certify the same to said purchaser and said settler; and upon the payment or tender by the said purchaser to the said settler, of the amount estimated by said commissioners, the said purchaser shall have a right to demand possession of the premises, and if possession shall not be given, the refusal or neglect of said settler to give possession shall be deemed a forcible detainer, and said purchaser may proceed against said settler by law, as though said settler had received the possession of said purchaser, at or after the date of his said purchase.

And the question being taken thereon, it was resolved in the negative—Yeas 11, nays 25.

The yeas and nays being required thereon by messrs. Beauchamp and Jones, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Bowmar, Davidson, Dawson, Faulkner, Flournoy, J. L. Hickman, R. Hickman, Jones, Marshall and Williams.

Those who voted in the negative, are, messrs. Ballinger, Barbee, Beauchamp, Bowman, Carneal, Carpenter, Crutcher, Ewing, Ford, Given, Gorin, Lackey, M'Afee, Mountjoy, Owens, Perrin, Pickett, Roper, Slaughter, Smith, Throckmorton, Ward, Weir, White and Worthington.

Mr. J. L. Hickman then moved to amend the amendment made by the house of representatives, by striking out the words 'five years;' and the question being taken thereon, it was resolved in the affirmative—Yeas 20, nays 16.

The yeas and nays being required thereon by messrs. J. L. Hickman and Throckmorton, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Barbee, Bowmar, Carpenter, Davidson, Dawson, Faulkner, Flournoy, Ford, Gorin, J. L. Hickman, R. Hickman, Jones, Marshall, Perrin, Pickett, Roper, Smith, Throckmorton and Williams.

Those who voted in the negative, are, messrs. Ballinger, Beauchamp, Bowman, Carneal, Crutcher, Ewing, Given, Lackey, M'Afee, Mountjoy, Owens, Slaughter, Ward, Weir, White and Worthington.

Mr. Carneal moved to fill up the blank with the words 'four years;' and the question being taken thereon, it was resolved in the affirmative—Yeas 18, nays 18—the speaker voting in the affirmative.

The yeas and nays being required thereon by messrs. Williams and Perrin, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Ballinger, Barbee, Beauchamp, Bowman, Carneal, Crutcher, Dawson, Ewing, Given, Lackey, M'Afee, Mountjoy, Owens, Slaughter, Ward, Weir, White and Worthington.

Those who voted in the negative, are, messrs. Anderson, Bowmar, Carpenter, Davidson, Faulkner, Flournoy, Ford, Gorin, J. L. Hickman, R. Hickman, Jones, Marshall, Perrin, Pickett, Roper, Smith, Throckmorton and Williams.

Mr. Marshall then moved to re. consider the vote striking out 'five years,' and it was re. considered.

Mr. White moved the following amendment to the amendment, to wit :

Provided, When the purchaser fails or refuses to pay for improvements as aforesaid, before the occupant shall be entitled to the privileges hereby granted, he shall enter into bond to the purchaser, in an adequate penalty, conditioned that he, she or they will not commit unnecessary waste, and that he, she or they will deliver up to the purchaser peaceable possession of the premises, at the end of the term aforesaid ; nevertheless, the purchaser shall be entitled to the possession of that part of his purchase not actually improved and occupied by such settler, except for fire wood and repairs.

Which was adopted.

The question was then taken upon concurring in the amendment as amended, and it was resolved in the affirmative—Yeas 19, nays 17.

The yeas and nays being required thereon by messrs. Faulkner and Carneal, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Ballinger, Barbee, Beauchamp, Bowman, Carneal, Crutcher, Cowan, Ewing, Given, Lackey, M'Afee, Mountjoy, Owens, Slaughter, Throckmorton, Ward, Weir, White and Worthington.

Those who voted in the negative, are, messrs. Anderson, Bowmar, Carpenter, Davidson, Dawson, Faulkner, Flournoy, Ford, Gorin, J. L. Hickman, R. Hickman, Jones, Perrin, Pickett, Roper, Smith and Williams.

Ordered, That Mr. Given inform the house of representatives thereof, and request their concurrence in the amendments.

The first amendment made by the senate to resolutions from the house of representatives concerning the Bank of

Kentucky and the Bank of the Commonwealth of Kentucky, was taken up and read.

Resolved, That the senate insist on said amendment.

Mr. M'Afee moved to re consider said vote ; and the question being taken thereon, it was resolved in the affirmative—Yeas 19, nays 10.

The yeas and nays being required thereon by messrs. Faulkner and Ewing, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Ballinger, Barbee, Beauchamp, Bowman, Bowmar, Crutcher, Cowan, Ewing, Gorin, Marshall, M'Afee, Owens, Pickett, Roper, Smith, Throckmorton, Ward, White and Worthington.

Those who voted in the negative, are, messrs. Anderson, Carpenter, Davidson, Faulkner, Ford, J. L. Hickman, R. Hickman, Jones, Perrin and Pope.

Resolved, That the senate recede from their first amendment to said resolutions, and that mr. Crutcher inform the house of representatives thereof.

The senate took up the nominations made on yesterday, and they were read as follows, to wit :

Gentlemen of the Senate,

I nominate for your advice and consent, the following gentlemen, to be commissioned officers in and for the county of Lawrence, viz.

Edward Burgess, Nimrod Canterbury, Lewis Welman, James Wheeler, John Haws, Henry Giger, Thomas Thompson, John Stafford, Isaac Bolt, gentlemen justices of the peace for said county ; William Graves, sheriff, and Hiram Chadwick, coroner for said county.

JOHN ADAIR.

December 18th, 1821.

Gentlemen of the Senate,

I nominate for your advice and consent, the following gentlemen, to be commissioned during good behaviour, viz,

James White, colonel of the 90th regiment, in the place of James Stone, resigned.

Moses Wright, lieutenant colonel of the same regiment, in the place of James White, if promoted.

Joshua Buster, major of the same regiment, in the place of Moses Wright, if promoted.

Matthew Lyon, colonel of the 84th regiment, in the place of Samuel Glenn, resigned.

Isham E. Osborn, major of the same regiment, in the place of Matthew Lyon, if promoted.

JOHN ADAIR.

December 18th, 1821.

Gentlemen of the Senate,

I nominate for your advice and consent, the following gentlemen, viz.

Thomas Moebee, notary public in and for the county of Bath, to be commissioned during good behaviour.

James Clinton, keeper of the turnpike gate on the Wilderness Road, to continue in office until the end of the next general assembly.

JOHN ADAIR.

December 18th, 1821.

Resolved, That the senate advise and consent to said appointments, and that messrs. Lackey and Given inform the governor thereof.

Bills from the house of representatives, of the following titles, to wit: An act for the benefit of Joseph Crawford and Robert Claghorn; an act for the relief of Elizabeth Carstarphen and Abigail Birdwell; an act for the relief of Samuel Howard and Nancy Fulcher; and an act for the appropriation of money; were read the first time.

The rule being dispensed with, they were read a second time, and the three former a third time.

Resolved, That the three former bills do pass, and that Mr. Ward inform the house of representatives thereof.

The latter bill was committed to a committee of the whole house on the state of the commonwealth.

Messrs. Williams and Barbee, from the joint committee of enrolments, reported that they had examined sundry enrolled bills of the following titles, to wit: An act for the benefit of the seminary in Harlan county; an act for the benefit of the widow and heirs of Martin Hawkins and Henry Clifton; an act to amend an act appointing persons to view a way for a road from Danville to the Tennessee line; an act for the division of Floyd county; an act for the relief of Andrew Craig; an act for the benefit of the widow and heirs of John Willitt, deceased; an act for the benefit of Champ Mullens of Rockcastle county; an act for the relief of Culvin Sanders and Elizabeth Davenport; an act to amend an act concerning a house of public worship in the town of Frankfort; an act concerning Jeffersontown, in Jefferson county; an act for the benefit of Henry S. Langford, infant heir of Stephen Langford, deceased; an act au-

thorising the trustees of the Union academy to sell certain lands; an act to ascertain and mark the division line between the counties of Grant, Boone and Gallatin, and Henderson and Union; an act for the benefit of the heirs of William Shannon and James Bristoe; an act to amend and repeal in part an act entitled an act for establishing and laying off a town at the Iron Banks, approved December 27, 1820; an act for the benefit of the clerk of Nicholas circuit court, and for other purposes; an act for the benefit of the heirs of Archibald Marshall, deceased; an act for the benefit of Mary Prewitt, administratrix of Anderson L. Prewitt, deceased; an act for the divorce of sundry persons; an act to declare Cabin creek a navigable stream; an act for the better regulation of the towns of Carlisle and Springfield; an act to amend an act for surveying the military claims west of the Tennessee river, approved December 26, 1820; an act for the benefit of the sheriffs of Warren and Greenup counties; an act authorising the sale of the real estate and slaves of certain persons; an act authorising the county courts to erect buildings for the accommodation of the poor; an act for the benefit of Peter Watts and John Curd's heirs; an act to extend the prison bounds; an act to regulate sales of real estate by the collector of the town tax of Bardstown; an act forming the counties of Hickman, Graves, Calloway and M'Cracken, on the southwest of the Tennessee river; a resolution fixing a day for the appointment of commissioners, agreeably to resolutions concerning the occupying claimant laws; an act providing for a change of venue in the case of Elisha English; an act providing a mode for this state receiving the net profits at the Commonwealth's Bank; and had found the same truly enrolled.

A message from the house of representatives, by Mr. Yantis:

Mr. Speaker—The Speaker of the house of representatives having signed sundry enrolled bills. I am instructed to lay the same before the senate, for the signature of their Speaker.

And then he withdrew.

Whereupon the Speaker signed said bills, being the same reported to day by messrs. Williams and Barbee, and they were delivered to the joint committee, to be laid before the governor for his approbation and signature.

And Mr. Barbee, from said committee, reported that they had performed that duty.

Mr. Marshall, from the select committee to whom was referred a bill for the benefit of debtors and creditors, reported the same with amendments; and the bill and amendments were laid on the table.

A message from the house of representatives, by Mr. Howard:

Mr. Speaker—The house of representatives disagree to a bill from the senate, entitled ‘an act to amend an act regulating jailers’ fees, approved January 31, 1818.’

And then he withdrew.

A message from the house of representatives, by Mr. Percy:

Mr. Speaker—The house of representatives have passed a bill entitled ‘an act further to provide for the settlement of the concerns of the Farmers and Mechanics’ Bank of Shelbyville, and for other purposes;’ in which they request the concurrence of the senate.

And then he withdrew.

On motion of Mr. Carneal, leave was given to bring in a bill to declare settlements made on treasury warrant claims, west of the Tennessee river, null and void, and to authorise the register to remove all settlers thereon; and messrs. Carneal, Given, M’Afee, Ewing and J. L. Hickman were appointed a committee to prepare and bring it in.

A bill from the house of representatives, entitled ‘an act to regulate the times of holding the circuit courts, county courts and general court, was taken up and further amended.

Resolved, That the said bill, as amended, do pass, and that Mr. Ward inform the house of representatives thereof and request their concurrence in the amendments.

A message from the house of representatives, by Mr. M’Connell:

Mr. Speaker—The house of representatives have passed a bill entitled ‘an act for the benefit of the heirs of James Watkins and others;’ in which they request the concurrence of the senate.

And then he withdrew.

A bill from the house of representatives, entitled ‘an act to authorise the establishment of a Branch Bank of the Commonwealth at Bardstown,’ was read a second time and laid on the table until the first day of July next.

A message from the house of representatives, by Mr. Speed:

Mr. Speaker—The house of representatives have adopted resolutions, having for their object the preservation of harmony between this state and the adjoining non slave holding states; in which they request the concurrence of the senate.

And then he withdrew.

The said resolution was taken up and concurred in.

Ordered, That *mr. Williams* inform the house of representatives thereof.

A message from the house of representatives, by *mr. Moore*:

Mr. Speaker—The house of representatives have adopted a resolution fixing on a day for the adjournment of the legislature; in which they request the concurrence of the senate.

And then he withdrew.

The resolution was taken up and read as follows, to wit:

Resolved by the General Assembly of the Commonwealth of Kentucky, That when they adjourn on Friday the 21st inst. they will adjourn *sine die*.

The question being taken upon concurring therein, it was resolved in the affirmative—Yeas 32, nays 6.

The yeas and nays being required thereon by messrs. *Beauchamp* and *Perrin*, were as follows, to wit:

Those who voted in the affirmative, are, messrs. *Anderson*, *Barbee*, *Bowmar*, *Carneal*, *Carpenter*, *Crutcher*, *Cowan*, *Davidson*, *Dawson*, *Ewing*, *Faulkner*, *Flournoy*, *Ford*, *Given*, *Gorin*, *J. L. Hickman*, *R. Hickman*, *Jones*, *Lackey*, *Marshall*, *Owens*, *Perrin*, *Pickett*, *Pope*, *Roper*, *Slaughter*, *Smith*, *Throckmorton*, *Ward*, *Weir*, *Williams* and *Worthington*.

Those who voted in the negative, are, messrs. *Ballinger*, *Beauchamp*, *Bowman*, *M'Afee*, *Mountjoy* and *White*.

Ordered, That *mr. Ward* inform the house of representatives thereof.

A message from the house of representatives, by *mr. Cravens*:

Mr. Speaker—The house of representatives concur in the amendment made by the senate, upon concurring in those made by the house of representatives, to a bill entitled 'an act providing for the sale of the vacant lands west of the Tennessee river.'

And then he withdrew.

The senate then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, *mr. Lackey* in the chair; and after some time spent therein, *mr. Speaker* resumed

the chair, and Mr. Lackey reported, that the committee had, according to order, had under consideration a bill from the house of representatives, entitled 'an act for the appropriation of money,' and had gone through the same with amendments, which he handed in at the clerk's table.

And then the senate adjourned.

THURSDAY, DECEMBER 20, 1821.

The senate assembled.

Ordered, That the select committee be discharged from the further consideration of a bill from the house of representatives, entitled 'an act to amend the several acts taxing billiard tables, and for other purposes;' and it was read a third time.

Resolved, That the said bill do pass, and that Mr. Ewing inform the house of representatives thereof.

Mr. Marshall, from the select committee to whom was referred a bill to amend the several acts directing the course of descents, and a bill further to regulate the Bank of the Commonwealth of Kentucky, reported the same without amendment, and they were laid on the table.

Mr. Faulkner, from the committee of privileges and elections, made the following report, to wit:

The committee of privileges and elections have, according to order, had under consideration the sheriffs' returns from the several senatorial districts, and do report the following gentlemen elected, to wit:

1. Richard Ballinger, from the 23d senatorial district, composed of the counties of Knox, Whitley, Clay, Harlan and part of Perry.
2. Anak Dawson, from the 6th senatorial district, composed of the counties of Warren and Allen.
3. Jeroboam Beauchamp, from the 16th senatorial district, composed of the county of Washington.
4. John L. Hickman, from the 37th senatorial district, composed of the county of Bourbon.
5. Thomas D. Carneal, from the 25th senatorial district, composed of the counties of Boone and Campbell.
6. Dickson Given, from the 1st senatorial district, composed of the counties of Caldwell and Livingston.
7. Granville Bowman, from the 9th senatorial district, composed of the counties of Cumberland and Wayne and part of Monroe.

8. Robert B. M'Afee, from the 19th senatorial district, composed of the county of Mercer.

9. Matthews Flournoy, from the 28th senatorial district, composed of the county of Fayette.

10. Samuel Carpenter, from the 15th senatorial district, composed of the county of Nelson, in the place of Samuel M'Lean, resigned.

11. John Cowan, from the 10th senatorial district, composed of the county of Pulaski, in the place of Thomas Dolerhide, deceased.

The committee further report, that the following gentlemen's term of service will expire in the year 1822, viz.

12. Herman Bowmar, from the 27th senatorial district, composed of the counties of Woodford and Jessamine.

13. William Mountjoy, from the 24th senatorial district, composed of the counties of Gallatin, Pendleton and Grant.

14. James Davidson, from the 22d senatorial district, composed of the counties of Lincoln and Rockcastle.

15. James Ford, from the 18th senatorial district, composed of the county of Shelby.

16. Josephus Perrin, from the 36th senatorial district, composed of the county of Harrison.

17. Humphrey Jones, from the 21st senatorial district, composed of the county of Madison.

18. Thomas S. Slaughter, from the 5th senatorial district, composed of the counties of Logan and Simpson.

19. William Worthington, from the 4th senatorial district, composed of the counties of Butler, Grayson and Muhlenberg.

20. Thomson Ward, from the 32d senatorial district, composed of the counties of Greenup and Lewis.

21. Thomas Throckmorton, from the 35th senatorial district, composed of the counties of Nicholas and Bracken.

Those whose term of service will expire in the year 1823, are as follows, viz.

22. William P. Roper, from the 34th senatorial district, composed of the county of Fleming.

23. John Pickett, from the 33d senatorial district, composed of the county of Mason.

24. Richard Hickman, from the 29th senatorial district, composed of the county of Clarke.

25. Alexander Lackey, from the 31st senatorial district, composed of the counties of Bath and Floyd.

26. Alexander Pope, from the 14th senatorial district, composed of the county of Jefferson.

27. Young Ewing, from the 3d senatorial district, composed of the counties of Christian, Todd and Trigg.

Samuel Carpenter, from the 15th senatorial district, composed of the county of Nelson.

28. David White, from the 17th senatorial district, composed of the county of Henry.

Those whose term of service will expire in the year 1824, are as follows, viz

29. John J. Marshall, from the 26th senatorial district, composed of the counties of Franklin and Owen.

30. Elias Barbee, from the 13th senatorial district, composed of the counties of Green and Hart.

31. William R. Weir, from the second senatorial district, composed of the counties of Henderson, Union and Hopkins.

32. John Gorin, from the 7th senatorial district, composed of the county of Barren and part of Monroe.

33. William Owens, from the 8th senatorial district, composed of the counties of Adair and Casey.

John Cowan, from the 10th senatorial district, composed of the county of Pulaski.

34. Nathan D. Anderson, from the 11th senatorial district, composed of the counties of Ohio, Daviess and Breckinridge.

35. James Crutcher, from the 12th senatorial district, composed of the counties of Hardin and Bullitt.

36. John Faulkner, from the 20th senatorial district, composed of the county of Garrard.

37. Samuel L. Williams, from the 30th senatorial district, composed of the counties of Montgomery and Estill.

38. Rodes Smith, from the 38th senatorial district, composed of the county of Scott.

JOHN FAULKNER,
JAMES CRUTCHER,
JOSEPHUS PERRIN,
THOMSON WARD,
JOHN GORIN,
JER. BEAUCHAMP,
WILLIAM R. WEIR.

A message from the house of representatives, by Mr. Warfield :

Mr. Speaker.—The house of representatives concur in the second, fourth, fifth and sixth amendments made by the senate, to a bill entitled 'an act to regulate the times of hold-

ing circuit courts, county courts and the general court in this commonwealth,' and disagree to the first and third.

And then he withdrew.

The amendments were taken up and read.

Resolved, That the senate insist on their first and third amendments, and that mr. Owens inform the house of representatives thereof.

A message from the house of representatives, by mr. Smith :

Mr. Speaker—The house of representatives have passed a bill entitled 'an act appointing commissioners to examine Rockcastle river;' in which they request the concurrence of the senate.

And then he withdrew.

A message from the house of representatives, by mr. Jackman :

Mr. Speaker—The house of representatives have passed a bill entitled 'an act for the divorce of Polly Chambers;' in which they request the concurrence of the senate.

And then he withdrew.

The senate received information, by the secretary of state, that the governor did on yesterday approve and sign sundry enrolled bills and an enrolled resolution, of the following titles, to wit: An act forming the counties of Hickman, Graves, Calloway and M'Cracken on the southwest of the Tennessee river; an act to regulate sales of real estate by the collector of the town tax of Bardstown; an act to extend the prison bounds; an act for the benefit of Peter Watts and John Curd's heirs; a resolution fixing a day for the appointment of commissioners, agreeably to resolutions concerning the occupying claimant laws.

Ordered, That the clerk inform the house of representatives thereof.

Bills from the house of representatives of the following titles, to wit: An act further to provide for the settlement of the concerns of the Farmers and Mechanics' Bank of Shelbyville, and for other purposes; an act for the benefit of the heirs of James Watkins and others; an act for the divorce of Polly Chambers; and an act appointing commissioners to examine Rockcastle river; were read the first time.

The rule being dispensed with, they were read a second and third time.

Resolved, That the said bills do pass, and that mr. Ewing inform the house of representatives thereof.

Leave was given mr. Ewing to report the following bills, to wit: A bill to regulate the time of holding the county courts of Hickman, and a bill to increase the wages of the members of the legislature; which were read the first time.

The rule being dispensed with, they were read the second time; and the former having been engrossed, was read a third time.

Resolved, That said bill pass, and that the title be 'an act to regulate the time of holding the county courts of Hickman.'

Ordered, That mr. Ewing carry said bill to the house of representatives and request their concurrence.

The bill from the house of representatives, entitled 'an act for the appropriation of money,' with the amendments made by the committee of the whole house, was taken up.

Mr. Ewing moved the following amendment to the bill, to wit:

Be it further enacted, That from and after the first Monday in August next, the wages of the members of the general assembly shall be three dollars per day.

Mr. Jones moved to amend the amendment, by adding thereto—'for the first six weeks, and one dollar per day for the balance of the session.'

The question being taken on adopting the latter amendment, it was resolved in the negative—Yeas 9, nays 27.

The yeas and nays being required thereon by messrs. Flournoy and Beauchamp, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Carpenter, Faulkner, Flournoy, J. L. Hickman, Jones, Roper, Slaughter and Williams.

Those who voted in the negative, are, messrs. Ballinger, Barbee, Beauchamp, Bowmar, Carneal, Crutcher, Cowan, Davidson, Dawson, Ewing, Ford, Given, Gorin, Lackey, Marshall, M'Affee, Mountjoy, Owens, Perrin, Pickett, Pope, Smith, Throckmorton, Ward, White and Worthington.

The question was then taken on the first amendment, and it was resolved in the affirmative—Yeas 20, nays 15.

The yeas and nays being required thereon by messrs. Carpenter and Flournoy, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Ballinger, Barbee, Beauchamp, Carneal, Crutcher, Davidson, Dawson, Ewing, Faulkner, Given, Gorin, Lackey, Marshall, M'Affee, Perrin, Pickett, Pope, Slaughter, Ward and White.

Those who voted in the negative, are, messrs. Anderson, Bowmar, Carpenter, Cowan, Flournoy, Ford, J. L. Hickman, Jones, Mountjoy, Owens, Roper, Smith, Throckmorton, Williams and Worthington.

The question being taken upon concurring in the following amendment, to wit:

To George Baltzell, \$ 200 ; to William Hunter, \$ 600 ; to Allen F. Macurdy, \$ 200 ; to Thomas W. Jones, \$ 50 ; to Thomas V. Loofbourrow, \$ 200 ; being the sums respectively advanced by them for rebuilding the capitol.

To Mrs. Andrews, widow of Alexander Andrews, deceased, \$ 100, being the amount advanced by said Alexander Andrews in his lifetime towards rebuilding the state-house.

It was resolved in the affirmative—Yeas 25, nays 6.

The yeas and nays being required thereon by messrs. Carpenter and Faulkner, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Beauchamp, Bowmar, Carneal, Crutcher, Ewing, Ford, Gorin, J. L. Hickman, Jones, Lackey, Marshall, M'Afee, Mountjoy, Owens, Perrin, Pickett, Pope, Roper, Slaughter, Smith, Throckmorton, Ward and White.

Those who voted in the negative, are, messrs. Barbee, Carpenter, Davidson, Faulkner, Flournoy and Worthington.

Mr. Beauchamp then moved to strike out the following clause, to wit:

To the commissioners appointed on the part of this state to go to Virginia and to the federal court, to maintain the validity of the occupying claimant laws, two thousand dollars each.

And the question being taken thereon, it was resolved in the negative—Yeas 14, nays 22.

The yeas and nays being required thereon by messrs. Beauchamp and Carpenter, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Barbee, Beauchamp, Carpenter, Cowan, Davidson, Faulkner, Flournoy, Jones, Mountjoy, Pope, Smith, Weir and Worthington.

Those who voted in the negative, are, messrs. Ballinger, Bowmar, Carneal, Crutcher, Dawson, Ewing, Ford, Given, Gorin, J. L. Hickman, Lackey, Marshall, M'Afee, Owens, Perrin, Pickett, Roper, Slaughter, Throckmorton, Ward, White and Williams.

The bill was further amended and read a third time.

The question being taken on the passage thereof, as amended, it was resolved in the negative—Yeas 15, nays 16.

The yeas and nays being required thereon by messrs. Dawson and Carpenter, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Anderson. Barbee. Bowmar. Carneal, Crutcher, Ewing, Ford, Jones, Marshall, M'Afee. Owens, Slaughter, Smith, Weir and White.

Those who voted in the negative, are, messrs. Beauchamp. Carpenter, Davidson. Dawson, Faulkner, Flournoy, Gorin, J. L. Hickman. Mountjoy, Perrin, Pickett, Roper, Throckmorton, Ward. Williams and Worthington.

And so the said bill was rejected.

Ordered, That mr. Beauchamp inform the house of representatives thereof.

The nominations made by the governor to day, were taken up and read as follows, to wit :

Gentlemen of the Senate,

I nominate for your advice and consent, the following gentlemen, to be commissioned officers in and for the county of Hickman, lately formed, to wit :

William Duncan, sheriff; William Danks, coroner; John Anderson, Thomas Barns, Arthur H. Davis, Andrew Bell, Henry Wheeler, Thomas Hill, James Craig, William Tipton, Jacob Rowland. Samuel Wilson and William Titsworth, gentlemen, justices of the peace in and for the said county.

JOHN ADAIR.

December 20th, 1821.

Gentlemen of the Senate,

I nominate for your advice and consent, Gabriel Robinson, major of the 92d regiment, in the place of James Milam, resigned, to take rank from the 15th of May 1821.

JOHN ADAIR.

December 20th, 1821.

Gentlemen of the Senate,

I nominate for your advice and consent, the following gentlemen, to be commissioned officers in Pike county, lately formed, viz.

James Honaker, sheriff; Elijah Adkins, coroner; Simon Justice, James Roberts, Reuben Gidens, Reuben Rutherford, John Hunt and John Beavens, gentlemen, justices of the peace for said county.

JOHN ADAIR.

December 20th, 1821.

Resolved, That the senate advise and consent to said appointments.

Ordered, That messrs. Lackey and Ewing inform the governor thereof.

A message from the house of representatives, by Mr. Worthington :

Mr. Speaker—The house of representatives have adopted a resolution for the erection of tomb stones in memory of the late governors of Kentucky ; in which they request the concurrence of the senate.

And then he withdrew.

The resolution was taken up, amended and concurred in.

Ordered, That Mr. M'Afee inform the house of representatives thereof, and request their concurrence in the amendment.

The resolution from the house of representatives, for printing the Laws and Journals, was concurred in, with an amendment.

Ordered, That Mr. Ewing inform the house of representatives thereof, and request their concurrence in the amendment.

Ordered, That a message be sent to the house of representatives, requesting leave to withdraw a bill from that house, which was rejected by the senate, entitled 'an act for the appropriation of money;' and that Mr. Ewing carry said message.

A message from the house of representatives, by Mr. Howard :

Mr. Speaker—The house of representatives give leave to withdraw a bill entitled 'an act for the appropriation of money.'

And then he withdrew.

A motion was then made to re consider the vote on the passage of said bill, and it was resolved in the affirmative—Yeas 25, nays 7.

The yeas and nays being required thereon by messrs. Beauchamp and Hickman, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Barbee, Bowman, Bowmar, Carpenter, Crutcher, Davidson, Dawson, Ewing, Faulkner, Flournoy, Ford, Gorin, J. L. Hickman, R. Hickman, M'Afee, Perrin, Pickett, Roper, Slaughter, Throckmorton, Ward, Weir, White, Williams and Worthington.

Those who voted in the negative, are, messrs. Anderson, Beauchamp, Marshall, Mountjoy, Owens, Pope and Smith.

The question was then again taken on the passage of the bill as amended, and it was resolved in the affirmative—Yeas 22, nays 12.

The yeas and nays being required thereon by messrs. Beauchamp and Carpenter, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Barbee, Bowman, Bowmar, Carneal, Crutcher, Cowan, Dawson, Ewing, Ford, Gorin, Lackey, Marshall, M'Afee, Owens, Perrin, Pickett, Pope, Roper, Slaughter, Ward, Weir and Williams.

Those who voted in the negative, are, messrs. Anderson, Beauchamp, Carpenter, Faulkner, Flournoy, J. L. Hickman, R. Hickman, Mountjoy, Smith, Throckmorton, Williams and Worthington.

Resolved, That the said bill as amended do pass, and that Mr. Ewing inform the house of representatives thereof and request their concurrence in the amendments.

A message from the house of representatives, by Mr. Warfield :

Mr. Speaker—The house of representatives have passed a bill entitled 'an act to incorporate the Lexington Medical Society; in which they request the concurrence of the senate.

And then he withdrew.

The bill was read the first time. The rule being dispensed with, it was read a second and third time.

Resolved, That the said bill pass, and that Mr. Ward inform the house of representatives thereof.

A message from the house of representatives, by Mr. Alexander :

Mr. Speaker—The house of representatives concur in the first, second, third, fourth, fifth and sixth amendments made to an act for the appropriation of money, with an amendment to the latter, and they disagree to the seventh and eighth amendments.

And then he withdrew.

The amendments were taken up and again read.

Resolved, That the senate adhere to their sixth, seventh and eighth amendments.

Ordered, That Mr. Ward inform the house of representatives thereof.

A message from the house of representatives, by Mr. Cowan :

Mr. Speaker—The house of representatives concur in the amendments made by the senate, to resolutions for the erection of tombstones in memory of the late governors of Ken-

tucky. They concur in the amendments made by the senate, upon concurring in those made by the house of representatives, to a bill entitled 'an act to amend the act to regulate endorsements upon executions,' with amendments. They adhere to their disagreement to the first and third amendments made by the senate to a bill entitled 'an act to regulate the time of holding the circuit courts, county courts and general court.'

And then he withdrew.

The former bill and amendments were taken up and read, and the following amendments proposed thereto, to wit :

Provided, That in case the defendant or defendants shall fail or refuse to make such selection, the officer may levy on other property, to be valued in like manner. *Provided also*, that nothing herein contained shall be construed to affect, in any manner, sales of real estate which may be made under the provisions of an act entitled 'an act to abolish imprisonment for debt and subject equitable interests to execution.' *Provided also*, that the commissioners directed to be appointed by this act, shall be entitled to one dollar for each day they may be necessarily employed, to be paid by the defendant.

Be it further enacted, That upon all executions upon original judgments, decrees in chancery or orders of sale, if no endorsement is made, the party shall have the same right of replevy that now exists by law ; and when an endorsement is made as above required, the defendant or defendants shall have a right to replevy for three months, as heretofore.

Which were adopted.

Mr. Beauchamp then moved to further amend it, by adding thereto the following, to wit :

Be it further enacted, That to do away any doubt what is meant by the word, money, it shall be construed to mean notes on the Commonwealth's Bank, and notes on the State Bank and their branches.

And the question being taken thereon, it was resolved in the negative—Yeas 12, nays 24.

The yeas and nays being required thereon by messrs. Beauchamp and Throckmorton, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Ballinger, Beauchamp, Bowmar, Marshall, M'Affee, Mountjoy, Owens, Perrin, Smith, Throckmorton, White and Worthington.

Those who voted in the negative, are, messrs. Anderson, Barbee, Bowman, Carneal, Carpenter, Cowan, Davidson, Dawson, Ewing, Faulkner, Flournoy, Ford, Gorin, J. L. Hickman, R. Hickman, Jones, Lackey, Pickett, Pope, Roper, Slaughter, Ward, Weir and Williams.

The question was then taken upon concurring in the amendment made by the house of representatives, as amended, and it was resolved in the affirmative—Yeas 27, nays 8.

The yeas and nays being required thereon by messrs. Beauchamp and _____, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Anderson, Ballinger, Barbee, Carneal, Carpenter, Cowan, Davidson, Dawson, Ewing, Flournoy, Ford, Gorin, J. L. Hickman, Jones, Lackey, Marshall, M'Afee, Mountjoy, Pope, Roper, Slaughter, Smith, Throckmorton, Ward, Weir, White and Worthington.

Those who voted in the negative, are, messrs. Beauchamp, Bowman, Bowmar, Crutcher, Faulkner, Owens, Perrin and Pickett.

Ordered, That Mr. M'Afee inform the house of representatives thereof.

The amendments to the bill from the house of representatives, entitled 'an act to regulate the times of holding the circuit courts, county courts and general court,' were again taken up.

Resolved, That the senate recede from their first amendment, with an amendment; and as to the third amendment, they ask a conference; and messrs. Owens and Ward were appointed a committee on the part of the senate.

Ordered, That Mr. Owens inform the house of representatives thereof.

A message from the house of representatives, by Mr. Cosby:

Mr. Speaker—The house of representatives concur in the amendments made by the senate, to resolutions for printing the Acts and Journals: and they concur in the amendments made by the senate, to a bill entitled 'an act allowing an additional number of constables in certain counties,' with amendments, in which they request the concurrence of the senate.

And then he withdrew.

The amendments were taken up and concurred in.

Ordered, That Mr. Ward inform the house of representatives thereof.

Mr. Barbee, from the joint committee of enrolments, reported that they had examined sundry enrolled bills and resolutions of the following titles, to wit: An act for the benefit of Joseph Crawford and Robert Claghorn; an act for the relief of Elizabeth Carstarphen and Abigail Birdwell; an act for the relief of Samuel Howard and Nancy Fulcher; resolutions having for their object the preservation of harmony between this state and the adjoining non-slave holding states; resolutions concerning the Bank of Kentucky and the Bank of the Commonwealth of Kentucky; and had found the same truly enrolled.

A message from the house of representatives, by Mr. Yantis:

Mr. Speaker—The Speaker of the house of representatives having signed sundry enrolled bills and resolutions, I am instructed to lay the same before the senate, for the signature of their Speaker.

And then he withdrew.

Whereupon the Speaker signed said bills and resolutions, being the same reported to day by Mr. Barbee, and they were delivered to the joint committee, to be laid before the governor for his approbation and signature.

And Mr. Barbee reported that they had performed that duty.

And then the senate adjourned.

FRIDAY, DECEMBER 21, 1821.

The senate assembled.

A message from the house of representatives, by Mr. Cosby:

Mr. Speaker—The house of representatives have passed a bill entitled 'an act to improve the road leading from Lexington to Nashville in Tennessee, from where the same crosses the Rolling Fork to the summit of Muldrough's hill;' in which they request the concurrence of the senate.

And then he withdrew.

The bill was read the first time. The rule being dispensed with, it was read a second and third time.

Resolved, That said bill pass, and that Mr. Pope inform the house of representatives thereof.

Leave was given Mr. Anderson to report a bill establishing inspections of tobacco and flour at the mouth of Sinking creek, which was read the first time.

The rule being dispensed with, it was read a second and third time. (having been engrossed.)

Resolved, That the said bill pass, and that the title be 'an act establishing inspections of tobacco and flour at the mouth of Sinking creek.'

Ordered, That Mr. Anderson carry said bill to the house of representatives and request their concurrence.

A message from the house of representatives, by Mr. Yantis :

Mr. Speaker—The house of representatives concur in the amendment made by the senate, upon receding from their first amendment to the bill entitled 'an act to regulate the time of holding circuit courts, county courts and the general court,' and they have appointed a committee of conference on their part, concerning the disagreement of the two branches on the third amendment made by the senate to said bill.

And then he withdrew.

A message from the house of representatives, by Mr. Luckett :

Mr. Speaker—The house of representatives have adopted a resolution for the exchange of Maps with other states; in which they request the concurrence of the senate.

And then he withdrew.

The resolution was taken up, amended and concurred in.

Ordered, That Mr. Ewing inform the house of representatives thereof, and request their concurrence in the amendments.

Mr. Owens, from the committee of conference on the bill from the house of representatives, entitled 'an act to regulate the time of holding circuit courts, county courts and the general court in this commonwealth,' reported, that the committee had come to a resolution that the senate recede from their third amendment.

Resolved, That the senate recede from said amendment, and that Mr. Owens inform the house of representatives thereof.

Mr. White moved the following resolution, to wit :

Resolved, That the public printers be directed forthwith to strike, on an extra sheet, 500 copies, certified by the secretary of state, of each of the acts of this session, establishing a literary fund and for other purposes, and the act fixing the time of holding circuit courts, for the use of the members of the legislature.

Which was adopted.

A message from the house of representatives, by Mr. Cowan :

Mr. Speaker—The house of representatives concur in the last amendments made by the senate to the bill entitled ‘an act to regulate endorsements on executions;’ and they have passed bills from the senate of the following titles, to wit: An act for the benefit of the sergeant of the court of appeals; an act to amend an act entitled ‘an act concerning attorneys for the commonwealth,’ and an act authorising certain repairs and improvements to be made to the government house and lot.

And then he withdrew.

A message from the house of representatives, by Mr. Pope :

Mr. Speaker—The house of representatives insist on their amendment to the sixth amendment of the senate, and insist on their disagreement to the seventh and eighth amendments to a bill entitled ‘an act for the appropriation of money,’ and request a conference with the senate on the subjects of their disagreement, and have appointed a committee on their part.

And then he withdrew.

Resolved, That the senate consent to a conference; and messrs. Ewing, Roper, Owens and Ward were appointed a committee on the part of the senate.

Ordered, That Mr. Owens inform the house of representatives thereof.

Mr. Beauchamp, from the select committee raised for that purpose, reported a bill to provide for the cultivation and improvement of lands in this commonwealth; which was read the first time and ordered to be read a second time.

A message from the house of representatives, by Mr. Luckett :

Mr. Speaker—The house of representatives have passed a bill entitled ‘an act for the benefit of the first regiment of Kentucky militia;’ in which they request the concurrence of the senate.

And then he withdrew.

The said bill was read the first time, and the rule being dispensed with, it was read a second and third time.

Resolved, That said bill pass, and that Mr. Ewing inform the house of representatives thereof.

Leave was given Mr. J. L. Hickman to report a bill for the relief of the surveyor of Bourbon county; which was

read the first time, and the rule being dispensed with, it was read a second and third time, (having been engrossed.)

Resolved, That the said bill pass, and that the title be 'an act for the relief of the surveyor of Bourbon county.'

Ordered, That Mr. J. L. Hickman carry said bill to the house of representatives and request their concurrence.

Mr. Ewing, from the committee of conference on the act for the appropriation of money, made the following report, to wit:

The committee of conference have agreed to recommend to their respective houses, that the senate adhere to their sixth amendment, and that the house of representatives recede from their amendment to the same. They also recommend, that the senate recede from their seventh and eighth amendments to said bill.

And the question being taken upon concurring in the report, it was resolved in the negative—Yeas 15, nays 17.

The yeas and nays being required thereon by messrs. Beauchamp and Perrin, were as follows, to wit:

Those who voted in the affirmative, are, messrs. Carpenter, Davidson, Faulkner, Flournoy, Ford, J. L. Hickman, R. Hickman, Jones, M'Afee, Owens, Roper, Ward, Weir, Williams and Worthington.

Those who voted in the negative, are, messrs. Anderson, Barbee, Beauchamp, Bowmar, Carneal, Crutcher, Ewing, Given, Gorin, Marshall, Mountjoy, Perrin, Pickett, Slaughter, Smith, Throckmorton and White.

Ordered, That Mr. Ewing inform the house of representatives thereof.

A message from the house of representatives, by Mr. Clark:

Mr. Speaker—The house of representatives have passed a bill entitled 'an act for the relief of Rebecca Thompson;' in which they request the concurrence of the senate.

And then he withdrew.

The bill was read the first time, and the rule being dispensed with, it was read a second and third time.

Resolved, That the said bill pass, and that Mr. Bowmar inform the house of representatives thereof.

A message from the house of representatives, by Mr. Smith:

Mr. Speaker—The house of representatives have passed a bill entitled 'an act to add a part of Madison county to the county of Rockcastle;' in which they request the concurrence of the senate.

And then he withdrew.

The bill was read the first time. The rule being dispensed with, it was read a second and third time.

Resolved, That the said bill pass, and that Mr. Davidson inform the house of representatives thereof.

A message from the house of representatives, by Mr. Cravens :

Mr. Speaker—The house of representatives have passed bills from the senate of the following titles, to wit: An act for the relief of the surveyor of Bourbon county; an act to regulate the time of holding the county courts of Hickman, and an act for the benefit of the heirs of William Kinkead, deceased; and they have passed a bill entitled 'an act authorising the citizens of Trigg county to fix on a place for their permanent seat of justice,' in which they request the concurrence of the senate.

And then he withdrew.

The bill was read the first time, and the rule being dispensed with, it was read a second and third time.

Resolved, That the said bill pass, and that Mr. Slaughter inform the house of representatives thereof.

A message from the house of representatives, by Mr. Wickliffe :

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled 'an act for the benefit of Luke Munsell;' and they disagree to a bill entitled 'an act for the benefit of Guillaume Marie Paul Villeminot.'

And then he withdrew.

Ordered, That a message be sent to the house of representatives, requesting leave to withdraw 'an act for the appropriation of money;' and that Mr. Ewing carry said message.

A message from the house of representatives, by Mr. Pope :

Mr. Speaker—I am directed to return a bill entitled 'an act for the appropriation of money,' agreeably to the request of the senate; and the house of representatives have passed a bill from the senate, entitled 'an act to amend an act entitled an act for the better regulation of the town of Falmouth, approved February 5, 1817.'

And then he withdrew.

The bill from the house of representatives, entitled 'an act for the appropriation of money,' was again taken up and the amendments read; and on motion, the vote disagreeing to the report of the committee of conference on said bill was re considered.

Ordered, That a message be sent to the house of representatives, requesting a free conference between the two houses, on the subject of their disagreement in the amendments to said bill.

A message from the house of representatives, by Mr. Pope :

Mr. Speaker—The house of representatives consent to a free conference with the senate, on the subject of their disagreement in the amendments to the bill for the appropriation of money ; and they have appointed a committee on their part.

And then he withdrew.

Ordered, That messrs. Ewing, Roper, Owens, White and Barbee be appointed on the part of the senate.

They retired, and after some time returned, when Mr. Ewing made the following report, to wit :

The committee of conference on the part of the senate, on a disagreement between the senate and house of representatives, on the bill for the appropriation of money, met in committee with the members appointed by the house of representatives, in that disposition of harmony and conciliation, which became the importance of the subject and the dignity of the body appointing them.

Amongst other propositions of compromise, your committee offered, on their part, to concede to the other branch of the legislature, the 7th and 8th amendments, retaining the 6th. The committee from the house of representatives refused any compromise, short of a total abandonment of all the amendments made by the senate.

Compromise and conciliation imply mutual concession ; and your committee could not, consistent with the nature and duties of their appointment, and the rights and privileges of the senate, accede to the requisitions of the committee of the house of representatives ; and they sincerely regret, that the conference, from which the most happy and beneficial results were anticipated, has proved entirely unavailing : which is respectfully represented to the senate.

The 6th, 7th and 8th amendments of the senate to said bill, were again taken up and read as follows, to wit :

6. To George Baltzell, \$ 200 ; William Hunter, \$ 600 ; Allen F. Macurdy, \$ 200 ; Thomas W. Jones, \$ 50 ; Thomas V. Loofbourrow, \$ 200 ; and to Mrs. Andrews, widow of Alexander Andrews, deceased, \$ 100 ; being the sums advanced by them respectively for rebuilding the capitol.

7. From and after the first Monday in August next, the wages of the members of the general assembly shall be three dollars per day.

8. From and after the first day of January next, the salary of the treasurer shall be fifteen hundred dollars per annum, in lieu of the salary now allowed by law.

On the motion of Mr. Owens, the vote of the senate adhering to said amendments was re-considered, and the question then taken upon concurring in the amendment made by the house of representatives, upon concurring in the sixth amendment, which strikes out the appropriations to the five first persons, and it was resolved in the affirmative—Yeas 21, nays 10.

The yeas and nays being required thereon by messrs. Beauchamp and Williams, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Anderson, Bowmar, Carpenter, Davidson, Dawson, Faulkner, Flournoy, Ford, J. L. Hickman, Jones, Marshall, M'Afee, Perrin, Pickett, Roper, Slaughter, Smith, Throckmorton, Weir, Williams and Worthington.

Those who voted in the negative, are, messrs. Barbee, Beauchamp, Crutcher, Ewing, Given, Gorin, Lackey, Mountjoy, Owens, Ward and White.

The question was then taken upon receding from the 7th amendment, and it was resolved in the affirmative—Yeas 26, nays 6.

The yeas and nays being required thereon by messrs. Beauchamp and Crutcher, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Anderson, Bowmar, Carpenter, Crutcher, Davidson, Dawson, Faulkner, Flournoy, Ford, Given, J. L. Hickman, Jones, Lackey, Marshall, M'Afee, Mountjoy, Owens, Perrin, Pickett, Roper, Slaughter, Smith, Ward, Weir, Williams and Worthington.

Those who voted in the negative, are, messrs. Barbee, Beauchamp, Ewing, Gorin, Throckmorton and White.

The question was also taken on receding from the 8th amendment, and it was resolved in the affirmative—Yeas 21, nays 11.

The yeas and nays being required thereon by messrs. Barbee and Beauchamp, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Bowmar, Carpenter, Davidson, Dawson, Faulkner, Flournoy, Ford, Given, J. L. Hickman, Jones, Lackey, M'Afee, Mount-

joy, Perrin, Roper, Slaughter, Smith, Throckmorton, Weir, Williams and Worthington.

Those who voted in the negative, are, messrs. Anderson, Barbee, Beauchamp, Crutcher, Ewing, Gorin, Marshall, Owens, Pickett, Ward and White.

Ordered, That mr. Ewing inform the house of representatives thereof.

A message from the house of representatives, by mr. Murray :

Mr. Speaker—The house of representatives have passed a bill from the senate, entitled “an act establishing inspections of tobacco and flour at the mouth of Sinking creek.”

And then he withdrew.

A message from the house of representatives, by mr. Lockett :

Mr. Speaker—The house of representatives have passed a bill entitled ‘an act to restrict the county courts in laying their levies and the mode of letting their public buildings,’ in which they request the concurrence of the senate.

And then he withdrew.

The bill was read the first time, and the rule being dispensed with, it was read a second and third time; and the question being taken on the passage thereof, it was resolved in the affirmative—Yeas 13, nays 9.

The yeas and nays being required thereon by messrs. Anderson and Beauchamp, were as follows, to wit :

Those who voted in the affirmative, are, messrs. Beauchamp, Crutcher, Davidson, Ewing, Ford, Lackey, Marshall, M’Afee, Owens, Pickett, Slaughter, Throckmorton and Ward.

Those who voted in the negative, are, messrs. Anderson, Bowmar, Carpenter, Faulkner, Fournoy, Gorin, Jones, Perrin and Smith.

Resolved, That said bill pass, and that mr. Owens inform the house of representatives thereof.

A message from the house of representatives, by mr. Worthington :

Mr. Speaker—The house of representatives have adopted resolutions relative to the South American Patriots; in which they request the concurrence of the senate.

And then he withdrew.

The resolution was taken up, twice read and concurred in.

Ordered, That mr. Owens inform the house of representatives thereof.

Messrs. Williams and Barbee, from the joint committee of enrolments, reported that they had examined sundry enrolled bills and resolutions of the following titles, to wit: An act to amend the several acts taxing billiard tables, and for other purposes; an act to amend the act entitled 'an act to regulate endorsements on executions;' an act for the division of Floyd county; an act for the divorce of Polly Chambers; an act appointing commissioners to examine Rockcastle river; an act to incorporate the Lexington Medical Society; an act to provide for the settlement of the concerns of the Farmers and Mechanics' Bank of Shelbyville, and for other purposes; an act for the benefit of the heirs of James Watkins and others; resolutions for printing the Laws and Journals; a resolution for the erection of tomb stones in memory of the late governors of this state; an act to regulate the time of holding circuit courts, county courts and the general court in this commonwealth; an act for the benefit of the first regiment of Kentucky militia, and for other purposes; a resolution for the exchange of Maps with other states; an act to improve the road leading from Lexington to Nashville in Tennessee, from where the same crosses the Rolling Fork to the summit of Muldrough's hill; an act to amend an act entitled 'an act concerning attorneys for the commonwealth;' an act for the benefit of the legatees of William Kinhead, deceased; an act establishing inspections of tobacco and flour at the mouth of Sinking creek; an act for the benefit of Luke Munsell; an act for the benefit of the sergeant of the court of appeals; an act authorising certain repairs and improvements to be made to the government house and lot; an act to regulate the time of holding the county courts of Hickman; an act for the relief of the surveyor of Bourbon county; an act to amend an act entitled 'an act for the better regulation of the town of Falmouth,' approved February 5, 1817; an act for the divorce of Rebecca Thompson; an act to add a part of Madison county to the county of Rockcastle; an act to restrict the county courts in laying their levies and the mode of letting their public buildings; a resolution relative to the South American Patriots; an act for the appropriation of money; and had found the same truly enrolled.

A message from the house of representatives, by Mr. Yantis:

Mr. Speaker—The Speaker of the house of representatives having signed sundry enrolled bills and resolutions, I am

instructed to lay the same before the senate, for the signature of their Speaker.

And then he withdrew.

Whereupon the Speaker signed said bills and resolutions, being the same reported to-day by messrs. Williams and Barbee, and they were delivered to the joint committee of enrolments, to be laid before the governor for his approbation and signature.

And messrs. Williams and Barbee, from said committee, reported that they had performed that duty.

The senate received information, by the secretary of state, that the governor did on this day approve and sign sundry enrolled bills which originated in the senate, of the following titles, to wit: An act to amend an act entitled 'an act to regulate endorsements on executions;' an act providing for the sale of the vacant lands west of the Tennessee river; an act for the relief of the surveyor of Bourbon county; an act for the benefit of the sergeant of the court of appeals; an act for the benefit of the legatees of William Kinkead, deceased; an act establishing inspections of tobacco and flour at the mouth of Sinking creek; an act to amend an act entitled 'an act for the better regulation of the town of Falmouth,' approved February 5, 1817; an act to amend an act entitled 'an act concerning attorneys for the commonwealth;' an act to regulate the time of holding the county courts of Hickman; an act authorising certain repairs and improvements to be made to the government house and lot; an act for the benefit of Luke Munsell.

Ordered, That the clerk inform the house of representatives thereof.

On motion, leave was granted to withdraw the petitions for a new county out of parts of the counties of Franklin, Mercer and Washington.

A message from the house of representatives, by Mr. Yantis:

Mr. Speaker—I am directed to inform the senate, that the house of representatives have finished their legislative business, and are now ready to adjourn without day; and have appointed a committee on their part, to co operate with one from the senate, to wait on the governor, to know of him whether he has any further communications to make.

And then he withdrew.

Ordered, That Mr Ewing inform the house of representatives that the senate have finished their legislative business, and are now ready to adjourn without day.

Messrs. M'Afee and Slaughter were appointed a committee on the part of the senate, to wait on the governor.

The committee retired, and after some time returned, and Mr. M'Afee reported, that they had performed the duty assigned them, and were informed by the governor that he had no further communications to make to the legislature.

The lieutenant governor delivered a valedictory address, and adjourned the senate without day.

And having retired, Mr. Crutcher was called to the chair, and Mr. White offered the following resolution, to wit:

Resolved, That the thanks of the members of this house, for themselves and on behalf of their constituents, are due to William T. Barry, Esq. lieutenant governor, for the able, masterly and distinguished manner with which he has consulted and advocated the interests of the people, as their representative; and for his impartial and dignified course, as presiding officer of the senate, during the present session of the general assembly.

Which was unanimously adopted.

APPENDIX.

MESSAGE

OF THE GOVERNOR TO THE SENATE,

NOVEMBER 6, 1821.

*Fellow Citizens of the Senate,
and of the House of Representatives,*

I BEG leave to lay before you, for your information and consideration, copies of various public documents and official communications, which I received during the recess of the general assembly, and which embrace objects connected with the public good.

The letter of Governor Robinson, and the accompanying report and resolution, expressive of the views and sentiments of the legislature of Louisiana on the subject of hospitals, I hope will occupy your serious deliberations. My personal observation convinces me, that you cannot render to your constituents a more humane service, than by aiding in the accomplishment of the philanthropic measures contemplated by the state of Louisiana.

JOHN ADAIR.

STATE OF NEW-HAMPSHIRE,

EXECUTIVE DEPARTMENT, CHESTER, Jan. 10, 1821.

Sir—I have the honor to transmit you the accompanying copy of a resolve passed by the legislature of this state, at its last session.

I have the honor to be, very respectfully,

Your excellency's most obedient servant,

SAMUEL BELL.

His excellency John Adair,

Governor of the State of Kentucky.

A copy—Test,

J. CABELL BRECKINRIDGE, *Secretary.*

STATE OF NEW-HAMPSHIRE.

In the year of our Lord one thousand eight hundred and twenty,

Resolved by the Senate and House of Representatives in General Court convened, That it is inexpedient to concur in the amendment to the constitution of the United States, proposed to the consideration of the several states by the state of Pennsylvania, which is in the following words, to wit :

“ Congress shall make no law to erect or incorporate any bank or monied institution, except within the district of Columbia ; and every bank or monied institution which shall be established by the authority of congress, shall, together with its branches and offices of discount and deposite, be confined to the district of Columbia ”

Resolved, That the governor of this state be requested to transmit copies of the foregoing resolution to the executives of the several states, with a request that they lay the same before the legislatures thereof.

In senate, December 15, 1820—The foregoing resolves were read and passed.

Sent down for concurrence.

JONATHAN HARVEY, President.

In the house of representatives, December 20, 1820.

Read and concurred.

MATHEW HARVEY, Speaker.

December 21st, 1820.

SAMUEL BELL.

A true copy—Attest,

SAML. SPARHAWK, Secretary.

A copy—Test,

J. CABELL BRECKINRIDGE, Secretary.

(CIRCULAR.)

SIR :

AUGUST 30, 1821.

I respectfully call your attention to the enclosed report and resolution. They so fully develop the views of the legislature, that I deem it unnecessary to add many observations of my own. I will content myself with saying, that appropriations have been made to aid the parishes of East Baton Rouge and St. Tammany in supporting sick and indigent strangers ; that between twelve and fifteen thousand dollars have been expended in repairing and improving the accommodation of the hospital at New-Orleans ; that the revenues of the institution are inconsiderable, and the ex-

perances brought upon it by diseased foreigners and citizens, enormous. Pennsylvania, sensible of the burthen which our peculiar situation imposed upon us, made a donation to the Charity Hospital, of the sum of five thousand dollars. Her liberality has not been imitated; other states, more immediately connected with us, lying on the waters of the Ohio and Mississippi, whose sick and destitute citizens require and receive our unremitted care, have withheld all aid and assistance whatever.

The Americans who enter the hospital at New Orleans, are as five hundred to a thousand—the ratio is greater in other parts of the state—they belong principally to the western country; and although I feel a just pride in assuring you, that the unfortunate stranger in Louisiana will not be abandoned or neglected, yet I most cordially unite with the legislature, in their opinion of the fitness and propriety of a propitious attention on the part of the government of Kentucky, to the views which I now lay before you.

I am, very respectfully,

Your excellency's most obedient servant,

TH. B. ROBINSON.

His excellency the Governor of Kentucky.

A copy—Test,

J. CABELL BREECKINRIDGE, *Secretary.*

STATE OF LOUISIANA.

The committee appointed on the resolution authorising the governor to correspond with the governors of the western states and territories, in relation to the establishment of certain hospitals within this state, respectfully report:

That they had given to the subject the consideration which its importance demands. The claims of humanity, connected with the great interests resulting to this state by securing to the trade and navigation of the Mississippi its utmost protection and encouragement, and to emigration its present course of action, require the speedy establishment of certain hospitals, for the relief of diseased persons employed in the commerce of the river from the western states and territories. Navigators and traders from more northern latitudes, arrive at New Orleans, generally, in good health; and either from the sudden change in climate, the want of proper caution in the economy of health, or the existence of contagious fevers, great numbers of those persons become sick. In that debilitated condition they set out, often in a sultry, or otherwise inclement season, to return home. The

routes usually pursued are up the river, or on the national road which has recently been opened by the general government, for facilitating the intercourse between the western states and New Orleans. In a short time, these unfortunate persons, being unable to proceed, stop under the first hospitable roof that will receive them. Others are arrested by disease, along the shores or on the road; and in either of these forlorn situations, a great majority die, for want of common medical aid, and the necessary nourishment and attendance, which, perhaps more than medicine, tend to avert the hand of death and to shorten the time of convalescence. Numerous examples of the cases here described, either in an increased or diminished proportion, occur every year. During the last season, it has been ascertained that many persons, affected with disease and unable to assist themselves, were charitably received into the military hospital at Baton Rouge, and that many made application for shelter and aid from the institution, who could not be admitted within it; that some, in an extreme state of disease, were landed from boats in the vicinity of the village, who died in the fields or on the banks of the Mississippi, for want of common assistance. It is ascertained, that the sum of nineteen hundred dollars was bestowed by the munificence of the citizens of Baton Rouge and parish, during the last year, for the relief of these unfortunate people. These individuals were principally boatmen from Kentucky, Ohio and other states on the Ohio. It has been ascertained also, from sources equally entitled to credit, that many persons belonging to that class of traders and navigators from the western states and territories, are annually taken sick on the great national road leading from Madisonville to Nashville in Tennessee, returning from New Orleans. These are exposed to an extreme degree of suffering, and in many instances become victims to disease, from the causes before mentioned.

A large and rapidly increasing population on the waters of Red river and its tributary streams, from the cultivation of cotton, almost to the exclusion of other productions, are dependant on the western states for provisions of every kind. This circumstance necessarily occasions a vast influx of traders, at a season of the year when the disorders incident to southern climates are at their greatest height of virulence. Their situation may be easily imagined. They are attacked by disorders of the most fatal kind, and which require immediate relief. They are strangers in the country,

a large majority poor and destitute, and all of them ignorant of the common language of the country; from all of which, they are certainly entitled to public care and solicitude.

Independent of the claims of humanity, and the interests of our commerce, which demand a speedy amelioration of these evils, there is one fact which requires the attention of the legislature: The burthen of yielding protection to the above class of sufferers, falls with heavy effect upon certain portions of the people of Louisiana, in their individual capacities. Neither this state nor the western states and territories to which these people belong, have any proportion of the burthen. Under the operation, however, of equal laws and a just policy, it is not to be doubted, that it should be duly shared by the respective communities who are to receive the highest degree of advantage.

In another point of view, it is evident that the frequent recurrence of such disasters must, in time, excite a degree of alarm and caution in the western traders, calculated to damp the spirit of enterprize and weaken the chain of commercial intercourse, which this state must ever feel of primary interest in preserving unimpaired. Whatever force may be ascribed to the principle, that the hope of gain is a more powerful impulse in human nature than the fear of death, and that this fact, combined with necessity, will always act so imperiously on the western people, as to secure the continuance of the trade through the channel of the Mississippi; yet it is prudent to recollect, that there are causes now rapidly developing, which may tend to disappoint expectations derived from these sources. The states of New-York, Pennsylvania and Virginia are making gigantic strides in public improvements. These chiefly relate to those higher views of political economy, which are designed to connect the waters of the Atlantic with those of the western country. Every effort will be made to draw the commerce from its old channels through the valley of the Mississippi, and give it a direction towards the east, by opening different avenues of communication between the Mississippi, Ohio, and Atlantic states. The practicability of such an enterprize no longer remains a question. It is easy to be foreseen, to what an extent it may be carried by the use of steam boats, the employment of capital, and innumerable allurements which capital never fails to create in favor of a market. The want of corresponding enterprize on our part, in giving the greatest degree of protection to the com-

merce and navigation of the Mississippi, will aid the accomplishment of views, which, if realized, must in time deprive this state of the whole trade of the upper country above the mouth of the Ohio.

From the foregoing considerations, the committee are of opinion, that no means should be neglected by the legislature, to remove every obstacle, however seemingly unimportant, that might remotely check the intercourse between this state and the western states and territories. Among these, they class the evils which have formed the subject of this report. They are of opinion, that they may be in a great measure obviated by the establishment of hospitals, for the reception of such persons engaged in the navigation of the river, and visitants to Louisiana, as may hereafter require it. They recommend that one of these should be erected at Baton Rouge, another at or near the town of Covington, a third at Natchitoches, or some convenient position on Red river. These positions are believed to be perfectly convenient for the purposes herein contemplated. They are represented to be healthy, and in parts of the country where suitable provisions for hospital establishments are easily obtained.

Your committee are further of opinion, that as the interests of Louisiana and the western states and territories are equally to be influenced by every measure which secures and encourages the trade of the Mississippi, it is just and right that the expences necessary for the creation and support thereof, should be reciprocal. Wherefore, the committee, from the foregoing premises, submit to the consideration of the legislature, the subjoined resolution :

Resolved by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That the governor be, and he is hereby authorised and requested to correspond with the executives of the Missouri and Arkansas territories, and of the states of Illinois, Indiana, Ohio, Kentucky, Tennessee and Mississippi, for the purpose of ascertaining from those executives their views in relation to the aforesaid establishments, and whether the aforesaid states and territories will contribute to the creation and support of the same, for the foregoing purposes ; and also, that he be requested to lay the said correspondence before the general assembly, at their next meeting.

Approved February 16th, 1821.

A copy—Test,

J. CABELL BRECKINRIDGE, *Secretary.*

APPENDIX.

RICHMOND, MARCH 1st, 1821.

SIR—I have the honor to enclose to your excellency an authentic copy of an act of the assembly of Virginia, passed on the 12th day of February 1820, by which the readiness of our state to concur with Kentucky in opening a new road between the two states is manifested, and provision actually made for extending the said road from the point where it shall pass the boundary line, to the main south western road from Richmond by Abingdon, as far as a survey thereof and a detailed report; which, it need not be doubted, will be quickly followed by the opening and completing the same, at the expence of Virginia. The executive of Virginia, as soon as they could fix, with any certainty, upon a fit and proper person to act as commissioner in behalf of the commonwealth, in conjunction with persons appointed for the same purpose on the part of Kentucky, proceeded to appoint Major James Taylor, of the county of Washington, in Virginia. His appointment was immediately made known to him by mail; but the communication of it to your excellency, could not properly be forwarded until it was certainly known that he would accept. No answer from him has been yet received, and his place would long since have been filled by another, if the executive had not understood, indirectly, that he would act. A letter from Colonel David Campbell, of the senate of Virginia, a resident in Washington, and friend of Major Taylor, dated 26th ult. assures the executive, that Major Taylor told him he was ready to perform the duties required of him, whenever he was directed so to do. An intimation from the commissioners appointed by your excellency, that they are ready to proceed to the business directed, is all that is now wanting; and that can be forwarded to Major Taylor by mail. He will, of course, come provided with the certificate of qualification required by the second section of the act of Virginia; but it may be requisite that your excellency should give an assurance that he is the commissioner appointed on behalf of Virginia, to the commissioners of Kentucky, that there may be no ground to question the authority of any paper he may be expected to produce.

I have the honor to be,

Your excellency's very obedient humble servant,

TH. M. RANDOLPH.

His excellency Governor Adair.

A copy—Pest,

J. CABELL BRECKINRIDGE, *Secretary.*

An ACT to authorise the appointment of a Commissioner, to meet a Commissioner or Commissioners to be appointed by the Governor of Kentucky, to determine on the point where a contemplated Road shall cross the dividing line between the two States of Virginia and Kentucky, and for other purposes.

WHEREAS the legislature of the state of Kentucky did, at the last session of the general assembly, enact a law appropriating a sum of money for the purpose of opening a road from Mountsterling, passing by way of Prestonsburg, to the Virginia line, a copy of which act has been transmitted by the governor of Kentucky to the governor of this state, with a communication requesting the subject to be laid before the legislature of this state, soliciting the extension of said road from the line between the two states to the interior of Virginia:

1. *Be it therefore enacted by the General Assembly of Virginia.* That the governor of this commonwealth, by and with the advice of council, is hereby authorised and required to appoint one fit and proper person, (not resident in the counties of Russell or Tazewell,) as a commissioner on behalf of this commonwealth, to act in conjunction with any commissioner or commissioners which may be appointed on the part of the state of Kentucky, to fix on and ascertain where the contemplated road shall cross the dividing line between the two states, in the direction from Mountsterling to intersect the main western road leading from Richmond by Abingdon, at the most convenient point; and said commissioner shall make report to the general assembly next after the same shall have been completed, of the practicability of making said road; the probable expences of making so much thereof as will be within the commonwealth of Virginia; together with the comparative conveniences and inconveniences which may result from the establishment of said road, as well to the public as to individuals.

2. *And be it further enacted,* That the commissioner so to be appointed, before he enters upon the duties required of him, shall take an oath before a justice of the peace within this commonwealth, that he will perform the duties hereby imposed upon him to the best of his skill and judgment; a certificate of which shall authorise him to enter upon the duties required.

3. *And be it further enacted,* That said commissioner shall be entitled to receive three dollars per day for every day he shall be necessarily employed in performing the duties here-

by required of him, to be paid by the directors of the board of public works, out of the fund for internal improvement. The number of days shall be ascertained by the oath of said commissioner, made before any justice of the peace within this commonwealth, a certificate of which shall entitle him to receive the sum aforesaid.

4. *Be it also further enacted*, That the governor of this commonwealth be authorised and required, without delay, to transmit a copy of this act to the governor of Kentucky, and, in conjunction with the governor aforesaid, to fix on the point where the commissioners aforesaid shall meet, to commence the performance of their duties.

5. This act shall commence and be in full force from and after the passing thereof.

RICHMOND, VIRGINIA,

I certify the foregoing to be a true copy of an act passed by the general assembly of Virginia, on the twelfth day of February, one thousand eight hundred and twenty, and in the forty-fourth year of the commonwealth.

Given under my hand, (there being no seal of office,) this twelfth day of January, in the year of our Lord one thousand eight hundred and twenty-one.

WM. MUNFORD, *Keeper*

A copy—Test,

of the Rolls.

J. CABELL BRECKINRIDGE, *Secretary.*

His excellency John Adair, Governor of Kentucky:

WHEREAS the legislature of the state of Virginia did, on the 12th day of February 1820, pass an act to authorise the appointment of a commissioner, to meet a commissioner or commissioners to be appointed by the governor of Kentucky, to determine on the point where a contemplated road shall cross the dividing line between the two states of Virginia and Kentucky; and whereas the legislature of Kentucky did, on the 23d day of November 1820, pass a law appointing John Graham and Harry Stratton, of Floyd county, commissioners on the part of that state, with full power and authority to confer with the commissioner appointed on the part of Virginia:

The commissioners above named, and James Taylor, a commissioner appointed under the authority of the above recited act of Virginia, did, on the 31st day of August 1821,

meet at the point where the said contemplated road should cross the line between the said states, on the main Louisa fork of Sandy river, where the trace leading from Tazewell county in Virginia, to Floyd county in Kentucky, crosses the line between the two states, and have marked the said point with the letters V. K. on a beech and dogwood, on the west bank of the river.

The commissioners on the part of the two states, not deeming it absolutely necessary to act in conjunction farther than to ascertain the point where the road would cross the state line; the state of Kentucky being already fully satisfied respecting the practicability of making the said road, having already made the road from Mountsterling to Floyd court house, and has appropriated the sum of fifteen hundred dollars for the completion of the road to the state line.

The commissioner on the part of Virginia, intends to make a report to the next legislature, embracing all the objects contemplated by the law above recited.

Given under our hands and seals, this 31st day of August 1821.

JOHN GRAHAM, (Seal.)

HARRY STRATTON, (Seal.)

JAMES TAYLOR, (Seal.)

A copy—Test,

J. CABELL BRECKINRIDGE, *Secretary.*

COUNCIL CHAMBER, ANNAPOLIS,

February 15th, 1821.

*To his excellency the Governor
of the State of Kentucky:*

SIR—I am directed to transmit your excellency the accompanying report and resolutions, entered into and adopted by the general assembly of Maryland, at their late session; and to request that you will have the goodness to lay the same before the legislature of your state, whose cooperation is most respectfully solicited, towards the attainment of the objects therein contemplated.

I have the honor to remain

Your excellency's most obedient fellow citizen,

SAMUEL SPRIGG.

A copy—Test,

J. CABELL BRECKINRIDGE, *Secretary.*

APPENDIX.

STATE OF MARYLAND.

The committee to whom was referred so much of the governor's message as relates to education and public instruction, beg leave to report :

That they concur with his excellency in believing education, and a general diffusion of knowledge, in a government constituted like ours, to be of great importance ; and that, " in proportion as the structure of a government gives weight to public opinion, it is essential that public opinion should be enlightened." Your committee consider our government as emphatically a government of opinion. A general diffusion of knowledge, which is essential to its right administration, cannot be effected, unless the people are educated. No high degree of civilization, of moral power and dignity, or of intellectual excellence ; no superiority in science, in literature, or in liberal and useful arts, which constitutes the noblest national supremacy, can be attained without the aid of seminaries of learning. The establishment of literary institutions, then, of all grades, from the common school up to the university, becomes the first duty of the legislature of a free people.

Your committee are well aware of the difficulty, in the present embarrassed state of our pecuniary concerns, of providing the means of making education general. They are fully sensible that, at this time, large appropriations out of the public treasury for this purpose, all important as it is, cannot be expected. They deem it, therefore, their duty to recall to your notice a report and certain resolutions, presented to the senate at the last session by a committee, of a like nature with the present, which has been referred to your committee, as a part of the unfinished business. The object of those resolutions was to call the attention of congress and the legislatures of the several states, to the public lands, as a fund from which appropriations for the purposes of education may with justice be claimed, not only by Maryland, but all the original states, and three of the new ones.

One thirty-sixth part of all the states and territories, (except Kentucky,) whose waters fall into the Mississippi and the Gulf of Mexico, has been appropriated by congress, wherever the Indian title has been extinguished, and provisions made for further appropriations, according to the same ratio, wherever the Indian title may hereafter be extinguished, for the support of common schools ; and other large appropriations have been made for the support of sem-

inaries of a higher grade. Your committee are of opinion, that the states for whose benefit no such appropriations have been made, are entitled to ask them of congress, not as a matter of favor, but of justice. That this may more fully appear, especially as the right of those states to an equal participation with the states formed out of the public lands, in all the benefits derived from them, has been doubted, your committee have deemed it proper to take a cursory view of the manner in which they have been acquired.

Before the war of the revolution, and indeed for some years after it, several of the states possessed within their nominal limits, extensive tracts of waste and unsettled lands. These states were all at that epoch, *regal* and not *proprietary* provinces, and the crown, either directly or through the medium of officers, whose authority had been prescribed or assented to by the crown, was in the habit of granting those lands. The right of disposing of them was claimed and exercised by the crown, in some form or other. They might, therefore, with strict propriety, be called the property of the crown.

A question arose soon after the declaration of independence, whether those lands should belong to the United States, or to the individual states within whose nominal limits they were situated.

However that question might be decided, no doubt could be entertained, that the property and jurisdiction of the soil were acquired by the common sword, purse and blood of *all* the states, united in a common effort. Justice, therefore, demanded that, considered in the light of property, the vacant lands should be sold to defray the expences incurred in the contest by which they were obtained; and the future harmony of the states required, that the extent and ultimate population of the several states should not be so disproportionate as they would be if their nominal limits should be retained.

This state, as early as the 30th October 1776, expressed its decided opinion, in relation to the vacant lands, by an unanimous resolution of the convention which framed our constitution and form of government, in the following words, viz.

“Resolved, unanimously, That it is the opinion of this convention, that the very extensive claim of the state of Virginia to the back lands, hath no foundation in justice, and that if the same, or any like claim is admitted, the freedom of the smaller states and the liberties of America may be

thereby greatly endangered ; this convention being firmly persuaded that if the dominion over those lands should be established by the blood and treasure of the United States, such lands ought to be considered as a common stock, to be parcelled out, at proper times, into convenient, free and independent governments."

In the years 1777 and 1778, the general assembly, by resolves and instructions to their delegates in congress, expressed their sentiments in support of their claim to a participation in these lands, in a still stronger language, and declined acceding to the confederation. on account of the refusal of the states claiming them *exclusively* to cede them to the United States. They continued to decline, on the same grounds, until 1781, when, to prevent the injurious impression, that dissention existed among the states, occasioned by the refusal of Maryland to join the confederation, they authorised their delegates in congress to subscribe the articles; protesting, however, at the same time, against the inference (which might otherwise have been drawn) that Maryland had relinquished its claim to a participation in the western lands.

Most of the other states contended, on similar grounds with those taken by Maryland, for a participation in these lands.

By the treaty of peace in 1783, Great Britain relinquished "to the United States, all claim to the government, property and territorial rights of the same, and every part thereof."

The justice and sound policy of ceding the unsettled lands, urged with great earnestness and force by those states which had united in conquering them from Great Britain, strengthened by the surrender on the part of Great Britain, of her rights of property and jurisdiction to the United States *collectively*, and aided, moreover, by the elevated and patriotic spirit of disinterestedness and conciliation, which then animated the whole confederation, at length made the requisite impression upon the states which had exclusively claimed those lands ; and each of them, with the exception of Georgia, made cessions of their respective claims within a few years after the peace. Those states were Massachusetts, Connecticut, New York, Virginia, North Carolina and South Carolina, the charters of which, with the exception of New York, extended wettwardly to the South Sea or Pacific Ocean. This circumstance gave to Massachusetts and Connecticut a joint claim with Virginia, to such parts of what

was then called the North Western Territory, as came within the breadth of their respective charters. The rest of that territory lay within the limits of the charter of Virginia. New York, indeed, had an indefinite claim to a part of it. Cessions, however, from all these states, at length completed the title of the United States, and placed it beyond all controversy.

The state of North Carolina ceded its claim to the territory which now constitutes the state of Tennessee.

Georgia, (whose charter also extended westwardly to the Pacific Ocean,) at length, in 1802, ceded the territory which now constitutes the states of Mississippi and Alabama, except a small part on the south side of them, which was acquired under the treaty ceding Louisiana. The conditions of that cession were, that the United States should pay *one million two hundred thousand dollars* to Georgia, and extinguish the Indian title within the limits which she reserved.

The United States have, in this manner, acquired an indisputable title to all the public lands east of the Mississippi.

All the territory west of the Mississippi, together with the southern extremity of the states of Mississippi and Alabama, was purchased of France for *fifteen millions of dollars*. This sum, as well as the sums required for the purchase of the Indian title to the public lands, was paid out of the treasury of the United States.

So far, therefore, as acquisition of public lands has been made by purchase, it has been at the common expence; so far as it has been made by war, it has been by the common force; and so far as it has been made by cessions from individual states, it has been upon the ground, expressly stipulated in most of the acts or deeds of cession, that the lands should be "*considered*," to use the words of the act passed for that purpose by the state which made the largest cession, "*as a common fund, for the use and benefit of such of the states as have become, or shall become members of the confederation or federal alliance of said states, according to their usual respective proportions in the general charge and expediture, and shall faithfully and bona fide be disposed of for that purpose, and for no other use or purpose whatsoever.*"

In whatever point of view, therefore, the public lands are considered, whether as acquired by purchase, conquest or cession, they are emphatically the *common property of the Union*. They ought to enure, therefore, to the common use and benefit of all the states, in just proportions, and be appropriated to the use and benefit of any par-

or states, to the exclusion of the others, without an infringement of the principles upon which cessions from states are expressly made, and a violation of the spirit of our national compact, as well as the principles of justice and sound policy.

So far as these lands have been sold, and the proceeds been received into the national treasury, all the states have derived a justly proportionate benefit from them: So far as they have been appropriated for purposes of defence, there is no ground for complaint; for the defence of every part of the country is a common concern: So far, in a word, as the proceeds have been applied to *national*, and not to *state* purposes, although the expenditure may have been local, the course of the general government has been consonant to the principles and spirit of the federal constitution. But, so far as appropriations have been made in favor of any state or states, to the exclusion of the rest, where the appropriations would have been beneficial, and might have been extended to all alike, your committee conceive there has been a departure from that line of policy, which impartial justice, so essential to the peace, harmony and stability of the Union, imperiously prescribes.

Your committee, then, proceed to enquire, whether the acts of congress in relation to appropriations of public lands, have been conformable to the dictates of impartial justice.

By the laws relating to the survey and sale of the public lands, one thirty-sixth part of them has been reserved and appropriated in perpetuity for the support of common schools. The public lands are laid off into townships, six miles square, by lines running with the cardinal points; these townships are then divided into thirty-six sections, each a mile square, and containing 640 acres, which are designated by numbers. Section No. 16, which is always a central section, has invariably been appropriated (and provision has been made by law for the like appropriations in future surveys) for the support of common schools in each township.

In Tennessee, in addition to the appropriation of a section in each township for common schools, 200,000 acres have been assigned for the endowment of colleges and academies. Large appropriations have also been made in Ohio, Indiana, Illinois, Mississippi, Alabama, Louisiana, Missouri, Michigan and the north western territory, for the erection and maintainance of seminaries of learning of a higher grade than common schools. Your committee have not had an opportunity of ascertaining the exact amount of

those appropriations, but from such examination as they have been able to make, it is believed, that they bear a smaller proportion to those of common schools, than in Tennessee. Tennessee, in Seybert's Statistical Annals, is stated to contain 40,000 square miles, which are equal to 25,600,000 acres. One 36th part of this number of acres, which is the amount of appropriation for common schools, is 711,111. The appropriation for colleges and academies in that state, is, as above stated, 200,000 acres, being something less than two sevenths of the common school appropriation. It is believed that the appropriations in the other states and territories, for seminaries of a higher grade, do not amount to more than two-tenths or one-fifth of the appropriations for common schools. Your committee think they will not be far from the truth in estimating them at that proportion.

The states and territories east of the Mississippi, which have had appropriations made in their favor for the support of literary institutions; that is to say, Ohio, Indiana, Illinois, Mississippi, Alabama, Michigan and the north-western territory, are estimated, in Seybert's Statistical Annals, to contain of unsold lands,

200,000,000

Of lands sold,

11,697,125

To which add Tennessee,

25,600,000

And the aggregate number of acres in those states and territories will be 237,297,125

One 36th part of that aggregate number, being the amount of appropriation for common schools, is 6,591,586

Add one 5th part of the common school appropriation, as the appropriation for colleges and academies, 1,318,317

And the aggregate number of acres appropriated for the purposes of education in Ohio, Indiana, Illinois, Tennessee, Mississippi, Alabama, Michigan and the north-western territory, will be 7,909,903

At two dollars per acre, which is less, according to Seybert's Statistical Annals, than the average price of all the public lands which have heretofore been sold, the amount in money will be \$15,819,806

Seybert estimates the lands purchased of France by the U. States in 1803, at acres 200,000,000
 By the laws relating to the survey and sales of lands in Louisiana, Missouri and Arkansas, appropriations of land for the purposes of education have been made after the same ratio as in the new states and territories on the east of the Mississippi, and it is presumed, the same policy will be adhered to in relation to the whole of the public lands on the west of that river. On that supposition, the appropriations for common schools, that is, one 36th part of 200,000,000 acres, will be 5,555,555
 Add for colleges and academies one 5th part of the appropriation for common schools 1,111,111

And the aggregate number of acres will be 6,666,666 2.3
 At two dollars per acre, the amount in money will be \$ 13,333,333 1.3

To the aggregate number of acres appropriated for the support of literary institutions on the east side of the Mississippi, 7,909,908

Add the aggregate number of acres which, if the system heretofore followed should be (as it ought to be) adhered to, will ultimately be appropriated to literary purposes on the west of the Mississippi, 6,666,666 2.3

And the total literary appropriation in the new states and territories, will be acres 14,576,569 2.3
 At two dollars per acre, the amount in money will be \$ 29,153,139 1.3

Such is the vast amount of property destined for the support and encouragement of learning in the states and territories carved out of the public lands. These large appropriations of land, the *common* property of the Union, will enure to the *exclusive* benefit of those states and territories. They are appropriations for *state*, and not for *national* purposes; they are of such a nature that they might have been extended to all the states; they therefore ought to have been thus extended. All the other states paid their full share for the purchase of the region west of the Mississippi and for the extinguishment of the Indian title on both sides of that river. Massachusetts, Connecticut, Virginia, North-Carolina, South-Carolina and Georgia, besides pay-

ing their proportion of these expences, ceded all their vacant territory on the east side of the Mississippi. All these states, therefore, might, with great propriety, complain of partiality and injustice, if their applications to congress for similar appropriations for like purposes, should be refused.

But of this refusal they need have no apprehension, if they are true to their own interests, and are united in asserting them; for if, contrary to all reasonable expectation, the states which have already received the benefit of literary appropriations should be opposed to the extension of them to their sister states, the latter are more than two-thirds in number of all the United States, and have a still larger proportion of representatives in congress. These states are, Vermont, New Hampshire, Maine, Massachusetts, Rhode-Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Kentucky; and together have one hundred and sixty-nine representatives in congress. The favored states, on the contrary, have only seventeen representatives. The excluded states have therefore an overwhelming majority in congress, and have it completely in their power to make appropriations for the benefit of their literary institutions, upon the improbable supposition, that the representatives of the favored states would oppose them in congress; a supposition too discreditable to their character for justice, to be admitted.

The magnitude of the appropriations that would be required to place the states which have not yet enjoyed any for the purposes of education, upon an equal footing with those in whose favor they have already been made, can afford no just ground of objection. For, superior as the population of those states is, yet if the ratio of appropriation be observed with regard to them, which has been adopted in relation to other, *i. e.* one 36th part of the number of acres in the territory of each for common schools, and one 5th part of that one 36th for colleges and academies, the number of acres required will be much less than has already been given to the favored states and territories; it will indeed amount to but a very small portion of the public lands. For, according to Seybert's Statistical Annals, those lands, in 1813, amounted to 400,000,000 acres. The amount required for all the excluded states would be less than two and a half per centum of that quantity. To show which more clearly, your committee beg leave to submit the following statement, founded upon calculations made upon the

extent of territory in each of those states, as laid down in Seybert's Statistical Annals :

New-Hampshire contains 6,074,240	
One 36th part of that extent, being the number of acres of public land to which that state is entitled for the support of common schools, is	168,728 acres.
One 5th part of that 36th, to which New-Hampshire is entitled for the support of colleges and academics, is	33,745
Total for New-Hampshire,	202,473
Vermont contains 6,551,680 acres.	
One 36th part, for common schools, is	181,991
One 5th of one 36th, for colleges and academics,	36,398
Total for Vermont,	218,389
Massachusetts, including Maine, contains 28,990,000 acres.	
One 36th part, for common schools,	805,277
One 5th of one 36th, for colleges and academics,	161,055
Total for Massachusetts and Maine,	966,332
Rhode-Island contains 1,011,200 acres.	
One 36th part, for common schools,	28,088
One 5th of one 36th, for colleges,	5,617
Total for Rhode Island,	33,705
Connecticut contains 2,991,360 acres.	
One 36th part, for common schools,	83,093
One 5th of one 36th, for colleges and academics,	16,618
Total for Connecticut,	99,711
New-York contains 28,800,000 acres.	
One 36th part, for common schools,	800,000
One 5th of one 36th, for colleges and academics,	160,000
Total for New-York,	960,000
New-Jersey contains 5,324,800 acres.	
One 36th part, for common schools,	144,577

One 5th part of one 36th, for colleges and academies,	28,917	
Total for New Jersey,		173,494
Pennsylvania contains 29,872,000 acres.		
One 36th part, for common schools,	829,777	
One 5th of one 36th, for colleges and academies,	165,955	
Total for Pennsylvania.		995,732
Delaware contains 1,356,800 acres.		
One 36th part, for common schools,	37,688	
One 5th of one 36th, for colleges and academies,	7,537	
Total for Delaware.		45,225
Maryland contains 8,960,000 acres.		
One 36th part, for common schools,	248,888	
One 5th of one 36th, for colleges and academies,	49,777	
Total for Maryland,		298,665
Virginia contains 44,800,000 acres.		
One 36th part, for common schools,	1,244,444	
One 5th of one 36th, for colleges and academies,	248,888	
Total for Virginia,		1,493,332
North Carolina contains 29,720,000 acres.		
One 36th part, for common schools,	825,555	
One 5th of one 36th, for colleges and academies,	165,111	
Total for North Carolina,		990,666
South Carolina contains 15,411,200 acres.		
One 36th part, for common schools,	428,088	
One 5th of one 36th, for colleges and academies,	85,617	
Total for South Carolina,		513,705
Georgia contains 39,680,000 acres.		
One 36th part for common schools	1,102,222	
One 5th of one 36th, for colleges and academies,	220,444	
Total for Georgia,		1,322,666

Kentucky contains 32,000,000 acres.	
One 36th part for common schools,	888,888
One 5th of one 36th, for colleges and academies,	177,777
Total for Kentucky,	<u>1,066,665</u>

Total amount of literary appropriation necessary to do justice to the states which have not yet had any, 9,370,760

The senate will perceive, from the foregoing calculations, that if the ratio of appropriation for the purposes of education, which has hitherto been observed, be adopted with respect to the sixteen states which as yet have received no appropriations of that nature, a much smaller number of acres will be required than has already been assigned to the western region of our country; it would be an inconsiderable portion of the aggregate of public lands; a much less quantity, indeed, than now remains unsold in any of the states which have been formed out of them, with the exception perhaps of Ohio and Tennessee. The magnitude of the appropriations, then, which equal justice now requires, cannot be considered as a reasonable objection to them; and as the literary appropriations that have heretofore been made, have been granted for STATE, and not for NATIONAL purposes, according to the just principle set forth in the beginning of this report, similar appropriations ought to be extended to all the states.

The circumstance, that the lands which have heretofore been appropriated for the purposes of education, are a part of the territory of the states for whose benefit they have been assigned, can furnish no reasonable ground for the preference which has been given them. The public lands are not the less the common property of all the states, because they are situated within the jurisdictional limits of the states and territories which have been formed out of them. Such states have no power to tax them; they cannot interfere with the primary disposal of them, or with the regulations of congress for securing the title to purchasers. It is, in fact, congress alone that can enact laws to affect them. The interest which a citizen of an Atlantic state has in them, as a part of the property of the Union, is the same as the interest of a citizen residing in a state formed out of them. But hitherto appropriations of them for state purposes have only been made in favor of such states; and the

citizen, on the eastern side of the Alleghany, may well complain that property in which he has a common interest with his fellow-citizen on the western side, should be appropriated *exclusively* to the use of the latter. That this is the fact, in regard to that part of the public lands which have been assigned for the support of literary institutions and the promotion of education, cannot be denied.

Your committee do not censure the enlightened policy which governed congress in making liberal appropriations of land for the encouragement of learning in the west, nor do they wish to withdraw one acre of them from the purposes to which they have been devoted; but they think they are fully justified in saying, that impartial justice required that similar appropriations should have been extended to all the states alike. Suppose congress should appropriate 200,000 acres of the public lands for the support of colleges and academies in New York; and Virginia, who gave up and ceded a great portion of those lands to the United States, on the express condition that "they should be considered as a common fund for the use and benefit of all of them, according to their usual respective proportions in the general charge and expenditure," should apply for a similar grant, and her application should be refused; would she not have a right to complain of the partiality of such a measure, and to charge the federal government with a breach of good faith and an infringement of the conditions on which the cession was made? It cannot be denied that she would. Congress have already made a grant of 200,000 acres of land for the support of colleges and academies, not indeed in New York, but in Tennessee. Would not Virginia, if she now made an application for a like grant, and were refused, have the same reason to complain as if New York, instead of Tennessee, had been the favored state?

Your committee beg leave to illustrate, by another example, the equity of the principle which it is the object of this report to establish. Foreign commerce and the public lands are alike legitimate sources from which the United States may and do derive revenue. Foreign commerce has fixed its seat in the Atlantic states. Suppose congress should pass a law appropriating one 36th part of the revenue collected from foreign commerce, in the ports of Baltimore, New York, Boston, Norfolk, Charleston and Savannah, to the support of common schools throughout the states in which they are situated; the other states, every person will admit, would have a right to complain of the partiality and

injustice of such an act; and yet, in what respect would an act appropriating one 36th part of the revenue derived from foreign commerce to the use of schools, in the six states in which it should be produced, be more partial or unjust than an act appropriating one 36th part of the public land in Ohio, Indiana, Illinois, Tennessee, Mississippi and Alabama, the six states in which the public lands, on this side of the Mississippi, are chiefly situated, to their exclusive benefit in the maintenance of their schools?

Your committee are aware, that it has been said, that the appropriation of a part of the public lands to the purposes of education, for the benefit of the states formed out of them, has had the effect of raising the value of the residue, by inducing emigrants to settle upon them. Although, in the preambles of such of the acts on this subject as have preambles, the promotion of religion, morality and knowledge, as necessary to good government and the happiness of mankind, have been assigned as the reason for passing them, and no mention has been made of the consequent increase in the value of the lands that would remain, as a motive for the appropriation; yet the knowledge that provision had been made for the education of children in the west, though other motives usually influence emigrants, might have had its weight in inducing some to leave their native homes. If such has been the effect, the value of the residue of the lands has no doubt been increased by it. This increase of value, however, has not been an *exclusive* benefit to the Atlantic states, but a benefit *common* to all the states, eastern and western, while the latter still enjoy exclusively the advantage derived from the appropriations of land for literary purposes. The incidental advantage, of the increase in value of the public lands in consequence of emigration, if it is to be considered in the light of a compensation to the old states, must be shewn to be an advantage exclusively enjoyed by them. That this, however, is not the case, is perfectly obvious; because the proceeds of the lands thus raised in value by emigration, when sold, go into the United States' treasury, and are applied, like other revenues, to the general benefit; in other words, to *national*, and not to *state* purposes.

It is, moreover, most clear, that this increase of the value of lands, in consequence of emigration, produces a peculiar benefit to the inhabitants of the new states, in which the inhabitants of the other states, unless owners of land in the new, have no participation. The benefit consists in the

increase of the value of their own private property. On the other hand, it is undoubtedly true, that emigration is injurious to the Atlantic states, and to them alone. While it has had the effect of raising the price of lands in the west, it has, in an equal ratio at least, and probably in a much greater, prevented the increase of the value of lands in the states which the emigrants have left. It is an indisputable principle in political economy, that the price of every object of purchase, whether land or personal property, depends upon the relation which supply bears to demand. The demand for land would have been the same, or very nearly so, for the same number of people as are contained within the present limits of the United States, if they had been confined within the limits of the Atlantic states. But the supply in that case would have been most materially different. It must have been so small, in proportion to the demand, as to occasion a great rise in the value of land in the Atlantic states: for it cannot be doubted, that it is the inexhaustible supply of cheap and good land in the west which has kept down the price of land on the eastern side of the Alleghany. If the Atlantic states had been governed by an exclusive, local and selfish policy, every impediment would have been thrown in the way of emigration, which has constantly and uniformly operated to prevent the growth of their numbers, wealth and power; for which disadvantage the appreciation of their interest in the public lands, consequent upon emigration, can afford no adequate compensation. It appearing then perfectly clear to your committee, that emigration is exclusively advantageous to the new states, whose population, wealth and power are thereby increased, at the expense of those states which the emigrants abandon, the inducement to emigration furnished by the appropriation of public lands for the purposes of education in the west, instead of affording a reason for confining such appropriations to that quarter of the Union, offers the most weighty considerations, of both justice and policy, in favor of extending them to the states which have not yet obtained them.

Your committee beg leave to present one further reflection to the consideration of the senate, drawn from the effect produced by encouraging learning in the western states alone, upon the relative moral power of the Atlantic and Mississippi states. They are far from wishing to make any objection to the augmentation of the intelligence and mental improvement of the people of the west. On the contrary, they sincerely desire the advancement of their brethren in

that quarter of the Union, in every thing that can strengthen, dignify and embellish political communities. But, while they entertain these sentiments, they cannot shut their eyes to the political preponderance which must ultimately be the inevitable result of the superior advantages of education there, and they must, therefore, ardently desire that the same advantages be extended to the people of the Atlantic states.

Your committee are persuaded, that, from the views which they have thus presented, on the subject of appropriations of public lands for the purpose of education, the senate will be satisfied that Maryland, and the other states which have not yet had the benefit of any such appropriations, are entitled to ask of the general government to be placed on an equal footing with the states which have already received them. They believe that no one, convinced of the justice of such a measure, can question its expediency; nor can they entertain any apprehension that an application to congress, supported by the combined influence of all the states which are interested, would fail of success. For the purpose, therefore, of drawing the attention of the national legislature to this important subject, and of obtaining the co-operation of the other states, your committee beg leave to recommend the adoption of the following resolutions:

Resolved by the General Assembly of Maryland, That each of the United States has an equal right to participate in the benefit of the public lands, the common property of the Union.

Resolved, That the states in whose favor congress have not made appropriations of land for the purposes of education, are entitled to such appropriations as will correspond, in a just proportion, with those heretofore made in favor of the other states.

Resolved, That his excellency the governor be requested to transmit copies of the foregoing report and resolutions to each of our senators and representatives in congress, with a request that they will lay the same before their respective houses, and use their endeavors to procure the passage of an act to carry into effect the just principles therein set forth.

Resolved, That his excellency the governor be also requested to transmit copies of the said report and resolutions to the governors of the several states of the Union, with a request that they will communicate the same to the legislatures thereof, respectively, and solicit their co-operation.

EXECUTIVE DEPARTMENT,

CHESTER, July 30th, 1821.

SIR:

I have the honor to transmit you the enclosed resolves of the legislature of New Hampshire.

I am, with high respect,

Your excellency's obedient servant,

SAMUEL BELL.

His excellency John Adair.

Governor of Kentucky.

STATE OF NEW HAMPSHIRE.

The committee to whom was referred so much of his excellency's message as relates to a communication from the legislature of the state of Maryland, ask leave to report:

That the communication submitted to them embraces a report and certain resolutions thereupon, adopted by the legislature of the state of Maryland, the object of which is to call the attention of congress and the legislatures of the several states to the public lands, as a fund from which appropriations for the purposes of education may with justice be claimed by all the original states and some of the new ones.

Your committee have, with much attention, examined the grounds on which this claim is supposed to rest; and from this examination are satisfied that the principles contended for are just and equitable, and therefore do concur in the opinion expressed in the aforesaid documents. It is not, however, deemed necessary, on this occasion, to enter into an elaborate exposition of the principles on which this claim is founded, as this would lead merely to a recapitulation of the circumstances relied upon, and the arguments deduced by the committee who matured the report and resolutions now under consideration. It may be proper, notwithstanding, to present for consideration a few of the points brought to view in the report of that committee.

It is alleged, that before the war of the revolution, these states were regal, and not proprietary provinces, and that the right of disposing of them was claimed and exercised by the crown, in some form or other; that by the treaty of peace in 1783, Great Britain relinquished "to the United States, all claim to the government, property and territorial rights of the same, and every part thereof;" that between 1783 and 1802, the United States acquired an indisputable title to all the public lands east of the Mississippi, by cessions from all those states which had exclusively

claimed the unsettled lands within their respective limits, except a small part of the territory which now constitutes the states of Mississippi and Alabama, which was acquired under the treaty ceding Louisiana; that all the territory west of the Mississippi river, together with the southern extremity of the states of Mississippi and Alabama, was purchased of France for fifteen millions of dollars, and that all the sums of money required to pay France, to extinguish the Indian title to the public lands and the like, was paid out of the treasury of the United States; the common fund of the whole Union. Forasmuch, therefore, as the property and jurisdiction of the soil were acquired by the common means of all, it is contended that the public lands, whether acquired by purchase, by force, or by acts or deeds of cession from individual states, are the common property of the Union, and ought to enure to the common use and benefit of all the states in just proportions, and not to the use and benefit of any particular state or states, to the exclusion of others; and that any partial appropriation of them for state purposes, "is a violation of the spirit of our national compact, as well as the principles of justice and sound policy."

On enquiry, whether the acts of congress in relation to the appropriation of the public lands have been strictly national, it is ascertained, that by the existing laws relating to the survey and sale of them, one thirty-sixth part thereof has been reserved and appropriated in perpetuity for the support of common schools; besides which, large appropriations have been made in the new states generally, for the erection and maintenance of seminaries of learning of a higher grade than common schools, equal, it is calculated, to one fifth part of the appropriations for the common schools.

It is said, on good authority, that all the states and territories in whose favor appropriations have thus been, and are to be made, according to the existing laws, in support of literary institutions, contain 437,297,125 acres, and that the total amount of these literary appropriations in the new states and territories, will be 14,576,569 2.3 acres, which, at two dollars per acre, a sum less than the average price of all the public lands which have heretofore been sold, the amount in money will be \$29, 53,139 1.3.

The state of New Hampshire contains 6,074,240 acres; of course her proportionate share of the public lands for literary purposes, on the principles above stated, would be 202,473 acres.

It is admitted, that so far as the public lands have been sold, and the money paid into the national treasury, or appropriated for purposes of defence, all the states have derived a justly proportionate benefit from them. Nor is a spirit of envy attempted to be cherished towards the new states, on account of the bountiful appropriations made to them for literary purposes; but it cannot be denied, that such appropriations in favor of any state or states, to the exclusion of the rest, where the appropriations would have been beneficial and might have been extended to all alike, would be a departure from sound policy, as well as from impartial justice. These appropriations are of such a nature that they might have been, and still may be extended to all the states. Those states, therefore, for whose benefit such appropriations have not yet been made, will not be true to themselves, if they do not make known to congress, who alone possess the power to make them, their request for such appropriations, not as a matter of favor, but of right.

Whereupon, your committee beg leave to recommend the adoption of the following resolutions:

Resolved by the Senate and House of Representatives of the State of New Hampshire, in General Court convened, That each of the United States has an equal right to participate in the benefit of the public lands, as the common property of the Union, and that the states in whose favor congress have not made appropriations of land for the purposes of education, are entitled to such appropriations as will be in a just proportion with those heretofore made in favor of the other states.

Resolved, That his excellency the governor be requested to transmit copies of the foregoing report and resolution to each of our senators and representatives in congress, with a request that they will use their endeavors to procure the passage of an act to appropriate to the use of the state of New Hampshire, for the purposes of education, such quantity of the public lands as shall be equitable and just.

Resolved, That his excellency the governor be also requested to transmit copies of the said report and resolutions to the governors of the several states of the Union, with a request that they will communicate the same to the legislatures thereof respectively, and solicit their co-operation to carry into effect the just principles therein set forth.

All which is respectfully submitted, by

NEHEMIAH EASTMAN, *for the Committee.*

STATE OF NEW-HAMPSHIRE,

In Senate, June 18th, 1821.

The foregoing report and resolutions were read and adopted.

Sent down for concurrence.

JONATHAN HARVEY, *President.*

In the house of representatives, June 21st, 1821—Read and concurred.

ICHABOD BARTLETT, *Speaker.*

June 22d, 1821—Approved.

SAMUEL BELL,

A true copy—Attest,

SAMUEL SPARHAWK, *Secretary.*

A copy—Test,

J. CABELL BRECKINRIDGE, *Secretary.*

EXECUTIVE-OFFICE, VANDALIA, Feb. 5, 1821.

Sir:

I have the honor herewith to transmit to your excellency certain resolutions of the general assembly of the state of Illinois.

I have the honor to be, sir,

Your most obedient servant,

S. BOND.

His excellency the Governor of Kentucky.

1. *Resolved by the People of the State of Illinois, represented in the General Assembly, That they do concur in the amendment to the constitution of the United States, proposed to the consideration of the several states by the state of Pennsylvania, which is as follows, to wit: "Congress shall make no law to erect or incorporate any bank or other monied institution, except within the District of Columbia; and every bank or other monied institution which shall be established by the authority of congress, shall, together with its branches and offices of discount and deposit, be confined to the District of Columbia."*

2. *Resolved, That they do also concur in the amendment to the constitution of the United States, as proposed by the state of Vermont, which is as follows, to wit: "That for the purpose of choosing representatives in the congress of the United States, each state shall, by its legislature, be divided*

into a number of districts equal to the number of representatives to which such state shall be entitled. The districts shall be formed of contiguous territory, and contain, as nearly as may be, an equal number of inhabitants entitled by the constitution to be represented. In each district, the qualified voters shall elect one representative, and no more. That for the purpose of appointing electors of president and vice president of the United States, in each district entitled to elect a representative in the congress of the United States, the persons qualified to vote for representatives shall appoint one elector, and no more: The additional two electors to which each state is entitled, shall be appointed in such manner as the legislature thereof may direct. The electors, when convened, shall have power, in case any of them appointed as above prescribed, shall fail to attend, for the purposes of their said appointment, on the day prescribed for giving their votes for president and vice-president of the United States, to appoint another or others to act in the place of him or them so failing to attend. Neither the districts for choosing representatives, nor those for appointing electors, shall be altered in any state, until a census and apportionment of representatives under it, subsequent to the division of the state into districts, shall be made. The division of the states into districts hereby provided for, shall take place immediately after this amendment shall be adopted and ratified as a part of the constitution of the United States; and successively immediately afterwards, whenever a census and apportionment of representatives under it, shall be made, the division of each state into districts, for the purposes both of choosing representatives and appointing electors, shall be altered agreeably to the provisions of this amendment, and on no other occasion."

3. *Resolved*, That it is unnecessary and inexpedient so to amend the constitution of the United States, "That no law varying the compensation of the members of the congress of the United States, shall take effect, until the time for which the members of the house of representatives of that congress by which the law was passed, shall have expired," as recommended by the legislature of the commonwealth of Kentucky.

4. *Resolved*, That our senators and representatives in the congress of the United States, be requested to use their exertions to procure the adoption of the two first proposed amendments, and that they use their influence to prevent the adoption of the latter.

5. *Resolved*, That his excellency the governor of this state be requested to transmit copies of the foregoing resolutions to each of our senators and representatives in the congress of the United States, and also to the executives of the several states, with a request that they lay the same before the legislatures thereof, soliciting their co operation in effecting the objects contemplated by the said resolutions.

JOHN M'LEAN, *Speaker of the
House of Representatives.*

JAMES LEMAN, JR. *Speaker
of the Senate, pro tempore.*

A copy—Test,

J. CABELL BRECKINRIDGE, *Secretary.*

KASKASKIA, ILLINOIS, Oct. 10th, 1821.

His excellency the Governor of Kentucky :

SIR—I have the honor to transmit the following copy of a resolution of the general assembly of Illinois, passed at their last session, with a request that your excellency will lay the same before the general assembly of Kentucky, at their next session.

I have the honor to be,

Your excellency's obedient servant,

S. BOND.

A copy—Test,

J. CABELL BRECKINRIDGE, *Secretary.*

WHEREAS the north-western shore of the river Ohio is the boundary line between this state and the state of Kentucky ; and whereas, in consequence of the former state having no jurisdiction concurrently with the latter, on the said river, much detriment to the prompt administration of justice in that part of this state bordering thereon, has been occasioned, and may be hereafter occasioned ; and it is believed that if this subject were suggested to the honorable the legislature of Kentucky, they would consent to cede to this state concurrent jurisdiction with her, on the said river Ohio, so far as the same forms a common boundary to both : Therefore,

Resolved by the People of the State of Illinois, represented in the General Assembly, That the governor of this state be required to communicate to the governor of the state of Kentucky, (with a request that he lay the subject before the legislature of the said state, at their next session,) the request of this state, of a grant to her by the said state of Kentucky, of concurrent jurisdiction on the river Ohio, so far as the same forms a common boundary to both states; and that he transmit a copy of the above preamble and this resolution.

A copy from a resolution incorporated in the Acts of Illinois, furnished this state by the executive of said state.

Test,

J. CABELL BRECKINRIDGE, *Secretary.*